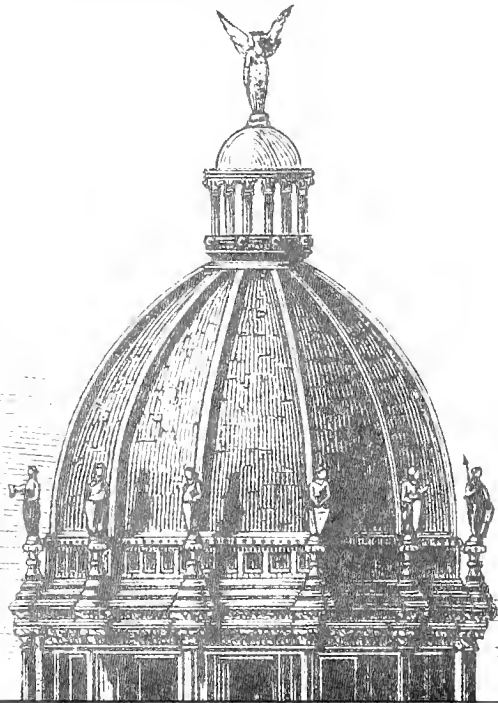


University of Florida

MODERNIZING STATE GOVERNMENT



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A STATEMENT BY THE RESEARCH AND POLICY COMMITTEE, JULY 1967

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MODERNIZING STATE GOVERNMENT

*A Statement on National Policy
by the Research and Policy Committee
of the Committee for Economic Development
July 1967*





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This statement has been approved for publication by the members of the Research and Policy Committee and of the Committee for Improvement of Management in Government, subject to individual dissents or reservations noted herein. The trustees who are responsible for this statement are listed on the opposite page. Company or institutional associations are included for identification only; the companies or institutions do not share in the responsibility borne by the individual members of the two committees.

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"Initiate studies into the principles of business policy and of public policy which will foster the full contribution by industry and commerce to the attainment and maintenance of high and secure standards of living for people in all walks of life through maximum employment and high productivity in the domestic economy."

The bylaws emphasize that:

"All research is to be thoroughly objective in character, and the approach in each instance is to be from the standpoint of the general welfare and not from that of any special political or economic group."

The Research and Policy Committee is composed of 50 Trustees from among the 200 businessmen and educators who comprise the Committee for Economic Development. It is aided by a Research Advisory Board of leading economists, a small permanent Research Staff, and by advisors chosen for their competence in the field being considered.

Each Statement on National Policy is preceded by discussions, meetings, and exchanges of memoranda, often stretching over many months. The research is undertaken by a subcommittee, with its advisers. For this statement the Committee for Improvement of Management in Government acted as a subcommittee. Together with the full Research and Policy Committee, CIMG participated in the drafting of findings and recommendations.

Except for the members of the Research and Policy Committee and of CIMG, the recommendations presented herein are not necessarily endorsed by other Trustees or by the advisers, contributors, staff members, or others associated with CED.

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FOREWORD

This policy statement on *Modernizing State Government* follows, complements, and reinforces that on *Modernizing Local Government*, published in July 1966. Both documents were prepared by CED's Committee for Improvement of Management in Government, and both have been issued and approved by the Research and Policy Committee of CED, as are all CED Statements on National Policy. *Modernizing State Government* also serves as a companion piece to the June 1967 policy statement, *A Fiscal Program For A Balanced Federalism*, which recommends measures to strengthen the fiscal capacity of the states.

The present statement stresses the need for modernization in all branches of state government—legislative, executive, and judicial. It recommends major changes, both to improve the quality of state operations, as such, and to encourage action by the states in correcting weaknesses in their systems of local government. Modern state and local governments are considered essential to the success of the federal system in meeting urgent issues of increasing complexity.

CED's Board of Trustees established the Committee for Improvement of Management in Government (CIMG) in 1963. In addition to those on local and state governments, mentioned above, CIMG prepared three prior CED policy statements, on *Improving Executive Management in the Federal Government* (1964), *Presidential Succession and Inability* (1965), and *Budgeting for National Objectives* (1966). CIMG is com-

posed of 25 CED Trustees and of several non-Trustee members, all with responsible experience in government as well as in industry or education, and is assisted by an Advisory Board of high professional attainments.

To Chairman Marion B. Folsom and Vice Chairman John A. Perkins, and to all other CIMG members and their Advisory Board, I extend the appreciation of the Research and Policy Committee. Special mention should also be made of the research and drafting contributions by Robert F. Steadman, Director, and John E. Sampson of the CIMG staff. We are grateful for financial support from the Carnegie Corporation, the Rockefeller Brothers Fund, the Kellogg Foundation, the Edgar Stern Family Fund, and other foundations, making possible the work of this Committee.

Emilio G. Collado, *Chairman*
Research and Policy Committee

INTRODUCTION AND SUMMARY OF RECOMMENDATIONS

Seldom have the states of the Union faced such urgent demands for solution of difficult problems, or had such challenging opportunities for constructive action. Yet their governments for the most part are inadequate. This condition is not new; qualified observers have made the same assessment over and over again. Competent governments are a vital necessity under present circumstances. Weaknesses and deficiencies command attention and create compulsions for correction to a degree not evident in decades past.

Profound social and economic changes pose challenges to government at all levels in America. Local governments are concerned with community problems of critical intensity. The national government assumes active leadership in domestic affairs, as well as in foreign relations. Some state governments meet new needs relatively well, but most do not. All suffer from popular neglect due in part to lack of information about their operations. Their response to insistent public demands is often negative. There are two primary reasons for this hesitancy by the states, one substantive and the other structural.

Substantively, trends toward grand-scale nationwide organizational networks in industry, communications, finance, commerce, labor, and transportation—together with greater mobility of population and associated social phenomena—have impaired the ability of states to cope with the consequences. Their resources and geographic jurisdictions are

limited in dealing with urgent problems emerging in congested and deteriorating central cities, in impoverished and depopulated rural areas, and in suburbs frustrated by failures to match rising expectations. Archaic tax systems make it hard to finance state operations.

Structurally, most state governments are poorly organized to fulfill their growing responsibilities and to perform the functions clearly within their province. These defects are correctable, given the will, and changes are imperative if the states are to be more than administrative instrumentalities of decision-makers at other levels. Governor Daniel J. Evans of Washington stressed this point in his second inaugural address of January 1967:

State governments are unquestionably on trial today. If we are not willing to pay the price, if we cannot change where change is required, then we have only one recourse. And that is to prepare for an orderly transfer of our remaining responsibilities to the federal government.

The states have a heavy responsibility for their fields of action within the federal system. Sweeping legislative reapportionments—still in process—have deepened public interest and fostered a climate conducive to change. Our purposes in this statement are: (1) to describe reasonable requirements for any state government seeking to utilize its major opportunities and (2) to set forth measures for obtaining necessary reforms.

• *The States and the Federal System*

The concept of federalism is deeply embedded in the theory and practice of American government. Federalism encourages diversity in choice of priorities and institutional forms. It counters any tendency toward monolithic centralization of power in the national government, since the states are political as well as legal entities and may be used to rally public opinion against ill-considered national measures. And it provides a training ground for recruitment and development of public leadership.

The weaknesses of the federal system, as it actually operates, are equally obvious. States with small populations, or low densities, or

chronic economic distress, or poor educational patterns find it increasingly difficult to provide modern public services. Moreover, as economic and social institutions expand in scale, ever-widening fields of human activity lend themselves poorly to management or control by the several states. State boundaries, fixed by history, are not based on current social and economic realities. The potential for interstate cooperation exists, but has not been vigorously exploited.

Any fundamental change in the tripartite division of powers and functions between national, state, and local levels may seem unimaginable. Yet, major changes in the basic character of the federal system have already taken place. Alterations have been gradual, with consequences often unforeseen. The federal system has proven remarkably flexible, permitting us to overcome its deficiencies by adroit use of ingenious devices. Nevertheless its complexities have created serious frustrations. Federalism cannot operate successfully without competent and effective governmental institutions *at all levels*. This elusive goal has not been attained and at times, particularly with respect to the states, it has seemed to move farther beyond reach.

The states form the keystone in the arch of the federal system—the bridge between local governments concerned with community problems and a central government dealing with nationwide issues. There is some validity in the facetious comment that our three-level federalism leaves “the national government with the money, local governments with the problems, and the states with the legal powers.” However, most states have access to resources sufficient to satisfy the basic service needs of their citizens. The wealthier states can deal independently with many serious economic and social problems. But few state governments have sought to collaborate with their major cities—or with other local units—in meeting critical local necessities. Many states have been more active in seeking new types and larger amounts of federal aid than in modernizing either their own revenue systems or those of their local units.

The values inherent in American federalism can and should be preserved. Effective and responsive state governments would support local efforts to solve pressing community issues, and could command a larger share of the Gross National Product (GNP). This outcome cannot be anticipated if the American people continue to disregard the imperative need to reform the legislative, executive, and judicial institutions of their states.

• *Powers and Functions of the States*

Scholars have made much of the national government's expansion through exercise of its delegated powers over interstate commerce, national defense, international affairs, taxation, and appropriations for "the general welfare." But the national government has redelegated some of its powers and functions back to the states—permitting or encouraging them to act where federal authority is legally paramount, as in the maintenance of national guard units or the regulation of insurance companies with interests crossing state lines. The pressures of world politics are likely to command an increasing proportion of the energies within the national government, making assumption of a larger state role in domestic management a logical possibility.

Many vital matters are within state jurisdiction. States have broad regulatory powers over persons and property. They charter corporations, control the terms of business contracts, license trades and professions, grant land titles, protect private and civil rights, regulate utilities, and set the legal framework of family organization through marriage, divorce, support, and adoption legislation. Authority to limit the uses of land and other property in order to abate water and air pollution or other dangers to the public health resides in the states. Building codes and zoning plans rest on state powers. The manner of use or failure to exercise these powers should not obscure their existence.

In the daily exercise of their sweeping authority, state and local governments manage the bulk of civil government operations in the United States. Universal public education is mandated, regulated, and largely financed by them. Higher education is also heavily state supported. Highways are constructed mostly by the states. Vast hospitals and institutional networks, including those for mental health and corrections, are under state management. The administration of criminal justice depends primarily on state courts and in increasing measure on state police. About half the states manage public welfare programs directly, the other half through their local units. These and other functions illustrate the importance of competent, imaginative, and vigorous state administration.

A dramatic, nationwide instance of neglect in application of state powers is the modernization of local government. Under American constitutional law the 50 states have absolute and exclusive au-

thority for the creation and dissolution of their local governments. While state constitutions often impose limitations, there is a wide area within which state legislatures can move—but have not—to correct deficiencies that plague the nation's 80,000 local units.

The cost of state operations, as such, is rising steeply. Total direct expenditures in current dollars nearly tripled, from \$10.8 billion in 1952 to \$31.3 billion in 1965, and per capita costs more than doubled in constant dollars. Expansion continues, at 7 to 10 per cent annually. Excluding defense, the national government's purchases of goods and services as a share of the Gross National Product fell from 3.8 per cent in 1940 to 2.3 per cent in 1966,¹ while the corresponding state-local share of GNP rose from 8.0 per cent to 10.3 per cent. In 1966 the states and their local units employed 8.3 million persons, more than triple the 2.6 million civilians in federal service. Although local governments have three times as many employees as the states, state employment exceeds federal when defense and related functions are excluded.

State aids to local units of government rose at about the same rate as direct state expenditures, from \$5.0 billion in 1952 to \$14.2 billion in 1965. During that period, federal grants to the states more than quadrupled from \$2.3 billion to \$9.9 billion, while aids to local units almost quintupled from \$237 million to \$1.16 billion. Direct state expenditures were one-sixth of total governmental costs in 1965, the same as in 1932; but with defense-related items excluded the states' share of the total has risen sharply in recent years.

The conditional character of grants-in-aid has affected both policy-making and administrative processes. The idea of three levels or "layers" of government, each performing its own distinctive functions independently of the others, becomes obsolete. National, state, and local levels are all involved to some degree in education, health, welfare, transportation, hospitals, maintenance of law and order, sanitation, recreation, housing and slum clearance, and almost every other governmental function. State and local politics even impinge on locational and other aspects of defense, space, and postal services. As perceptive observers have noted, the three-level "layer cake" of former times has given way to the "marble cake" of a newer federalism.

1 Excluded from "goods and services" are transfer payments, as from insurance trust funds and interest on the public debt, estimated at \$46.6 billion in fiscal 1968; this sum would equal more than 5 per cent of GNP.

The legal framework of federalism, as a system of “distributed self-government,” and the fine distinctions drawn in interpretation of the United States Constitution are matters of profound concern to the American people. But pragmatic considerations often supersede legal and philosophical arguments. In the longer run the role of the states in the federal system will increasingly be determined by the capability with which they function and the vigor with which they meet their obligations.

• *Reasons for Inaction by the States*

The frequent failure of the states in coming to grips with the fundamental economic and social issues within their province, and in coping with the chaotic fragmentation of local governments in most parts of the country, may be largely explained by four major kinds of handicaps.

Geographic Handicaps. Boundaries set long ago limit state size and jurisdiction, so that rational solutions for some major problems are beyond the reach of any one state.

Outmoded Structures. Innumerable deficiencies in the organization and management of state government serve as self-imposed handicaps against effective action.

Inadequate Use of Resources. Some states lack the resources, and many the determination, to raise sufficient revenues, leading to an increasing reliance on the national government for financial support of state and local services.

Political Weaknesses. Many states do not have the kind of political party organization necessary for building leadership on fundamental issues and for sponsoring highly qualified candidates for public office. In some states this extends to absence of any meaningful two-party system.

Geographic Handicaps

The boundaries of many states coincide reasonably well with the economic and social interests of the citizens, containing resources and population adequate for economies of scale in state services. Even where population is small, geographic isolation may justify separate statehood—as in Alaska and Hawaii. But some

states are severely handicapped in solving their most pressing problems because of awkward boundary locations. Metropolitan areas containing parts of two or more states are illustrative, as are river basin problems wherever major rivers form state boundary lines.

Since no state, acting alone, can be expected to solve multi-state problems, there is an obvious need for active interstate cooperation. Occasional and slowly increasing use has been made of interstate compacts, which the United States Constitution has authorized since 1789. Still, the potential utility of this device is largely unrealized. Uniform state laws have been drafted on a number of important subjects, but comparatively few have been widely adopted.

A new form of interstate cooperation, exemplified by the Appalachian Regional Commission, is now emerging under federal auspices. It has federal and state co-chairmen, and is largely financed by federal funds. A similar pattern is being applied in New England, the Upper Great Lakes, the Ozarks, and elsewhere. This approach highlights the need for interstate cooperation, seeking to overcome past failures to take advantage of opportunities for joint action by the states on their own initiatives.

Outmoded Structures Although there are partial exceptions, most state governments are burdened by obsolete structural organizations that are often fixed in their constitutions. This generalization extends to all three branches of state government.

Archaic Constitutions. In spite of the need for modern structural frameworks, only seven states have adopted new constitutions since 1945, including recently admitted Alaska and Hawaii. In some other states there are strong new indications of public concern, but most have shown little popular interest in the subject.

Unresponsive and Ineffective Legislatures. Past refusals by legislatures to reapportion themselves in conformance with clear state constitutional mandates have contributed to popular distrust of state government. There is also a widely held view that all governmental powers should be limited and restricted. Partly for these reasons, and partly through sheer inertia, most state legislatures are hemmed in by severe constitutional barriers. For example, 29 legislatures still meet in regular session only once in two years. Time limits of 40 to 195 days are imposed in 33 states. Many houses are unwieldy in size; only 19

lower chambers have less than 100 members. Few have committee systems designed for modern needs. Constitutional limitations in specific fields of legislative action are common, notably in taxation and appropriations.

Executive Weakness. Only half a dozen states give their governors the means for exercising administrative authority commensurate with their responsibility for faithful execution of the laws. Independent departments, agencies, boards, and commissions abound, inhibiting most governors. Eleven states deny their governors a second consecutive term and 13 others a third, reducing gubernatorial ability to provide political as well as administrative leadership. Such factors, together with low pay and inadequate staff assistance, discourage able persons from seeking the governorship.

Uncoordinated Court Systems. A few states have taken important steps to rationalize their court systems, but most have done little. Some or all state judges are elected in 41 states, most commonly by partisan ballot. Often tenure is too short and compensation inadequate.

*Inadequate Use
of Resources*

Collectively, the states have been reluctant to use their broad powers of taxation. Local governments have gradually claimed the lion's share of property taxes, and federal taxation of personal incomes has circumscribed state levies in this field. The states have fallen back on general or selective sales taxes for more than half their tax revenues. Negative attitudes toward taxation in any and every guise have been more strongly represented in state legislatures than in Congress or local legislative bodies, particularly where reapportionments were long delayed. In January 1967, there were 17 states without a broad-based personal income tax, 13 without such a levy on corporate incomes, and eight without a general sales tax.

Nevertheless, in recent years several states have added new taxes and raised rates on older levies, under pressures for better state services and increases in state aid. These changes, coupled with revenue by-products of the rapid rise in GNP, have left the majority of states in a strong financial position. However, those with small populations and large land areas are hard pressed despite heavy federal aids, and those containing large metropolitan concentrations are in above-average diffi-

culty. Many others would have serious financial troubles if more of the urgent demands being made on them were met.

State long-term debt outstanding on June 30, 1965, totaled \$26.2 billion, less than half of it on "full faith and credit." On that date, the 50 states had cash and security holdings of \$20.0 billion, exclusive of trust accounts. Meanwhile, many of their local governments were in grave difficulty. The vacuum created by state inaction has drawn the national government into law enforcement, highway safety, antipollution measures, conservation of natural resources, and many other fields where state responsibility is supposed to be primary. It is possible for a state to be "financially sound" and policy bankrupt.¹

Political Weaknesses State politics are characterized by vigorous two-party competition in many instances, permitting a healthy exploration of public issues. Several states are under one-party domination, however. In 12 cases more than 80 per cent of all members of the 1966 legislatures were members of the same political party. Since 1900 all or all but one of the governors from 13 states have been of the same political party.

Students of politics in one-party states point out that primary elections and runoffs give considerable opportunity for choices between candidates and their political positions. But it is also clear that popular participation in primary and general elections is customarily far less than where strong two-party competition exists. Control of governmental affairs by repressive "machine politics"—like that in many rural and urban communities—is often found in states under one-party domination. We are, therefore, gratified to note a recent trend toward the development of two-party systems in New England, Southern, and border areas where one-party government has been deeply rooted.

State and national politics are intertwined, to the degree that national parties are described as "federations" of state parties. In 1966, 48 of the 100 members of the United States Senate were former governors or state legislators, or both. In the United States House of Representatives there were 160 former legislators and three ex-governors.

¹ For a more detailed discussion on the subject of federal-state-local finance see *A Fiscal Program for a Balanced Federalism*, a Statement on National Policy by the Research and Policy Committee of the Committee for Economic Development, June 1967.

Often the main objective in holding state office is advancement to a national position. This helps to explain why state election campaigns tend to focus on national issues, particularly when they are held with national elections.*

There is some advantage in linking state and local elections with national contests. All levels of government are increasingly involved in the administration of the same functions. More voters customarily participate in state elections when they are held at the same time as national contests. Direct costs of elections and total campaign outlays are likely to be lower. Joint elections may also help to strengthen the two-party system, because weak state parties can gain more support for state and local candidates when tickets are headed by attractive persons running for national office.

Despite these apparent advantages, concentration on national campaigns distracts serious attention from issues and candidates at state and local levels.¹ The choice for governor, for example, is frequently affected by opinions concerning a potential for national leadership—in the Presidency, the Vice Presidency, or the Senate—rather than upon executive abilities for managing state affairs. Subordination of state problems, policies, and leadership to broad national trends may lead to defeat of outstanding state legislators, solely on the basis of identification with the party losing a national contest.

Such factors have led Kentucky, Mississippi, New Jersey, and Virginia to hold state elections in odd-numbered years, while Louisiana uses an earlier month in Presidential years. State affairs are thought to command more intelligent attention than would be possible with concurrent dates. Citizens of all states should seriously weigh the advantages and disadvantages of separate elections. There is an intermediate alternative already in use where state elections coincide with Congressional contests in non-presidential years.

If the states are to make independent policy decisions, their political institutions should have a degree of separability and a vitality of their own. The machinery of party organizations and nominating procedures ought, therefore, to receive careful attention. For example, con-

* See Memorandum by MR. CHARLES P. TAFT, page 76.

1 A classic local effort to make use of national issues was seen in a Chicago campaign billboard of the 1920's, "Elect George F. Harding County Treasurer—No League of Nations, No World Court."

sideration should be given to Connecticut's "challenge primary," which is intended to overcome the proven disadvantages of both the direct primary and the nominating convention. It permits primary contests, but only when convention losers have significant support. Every device designed to elicit greater popular interest and participation should be weighed. But vitality in state politics must depend most of all on fundamental substantive matters, on which governors and legislatures must provide leadership.

• *Summary of Recommendations*

We favor vigorous and effective state governments. Each should be able to initiate solutions for major public problems, either independently or in collaboration with other governments. Each should also be capable of well-coordinated execution of policy decisions. The structural condition of most state governments today, compounded by traditional inertia, blocks the path toward achievement of these objectives.

This Statement on National Policy calls for sweeping renovation of state constitutions — to grant legislatures broad power in dealing with the issues of changing times, to strengthen executive capability by providing modern tools of management, to improve the administration of justice, and to establish appropriate relationships between state and local levels of government. Structural and administrative readjustments will not, in themselves, solve the substantive problems now facing the 50 states. But they are an essential step if states are to find sound solutions and put them into effect. We believe most citizens desire to break away from traditional handicaps and to adapt governmental institutions to meet new challenges.

Diversity among the states makes broad generalizations suspect; each of the measures we propose applies more to some states than to others. We are convinced, however, that acceptance of the basic patterns here recommended would give all states a stronger capacity for cooperative undertakings with the national government and with each other, for effective guidance of the affairs of local government, and for competent management of state operations.

1. State constitutional revision should have highest priority in restructuring state governments to meet modern needs. Stress should be placed on repealing limitations that prevent constructive legislative and

executive action, on clarifying the roles and relationships of the three branches of government, on permitting thorough modernization of local government in both rural and urban areas, and on eliminating matters more appropriate for legislative and executive action.

Ideally, a constitution is a statement of basic principles, outlining powers, relationships, and responsibilities. It should not be encumbered with a vast bulk of ordinary statute law as so many state constitutions now are. Appropriate inclusions are a bill of rights, voting qualifications, provisions concerning political parties and elections, relationships between state and local governments, broad structural patterns for each of the three branches of government, the scope of gubernatorial authority in legislation and administration, and the means of amendment. Most, if not all, other matters are properly extraneous to this document.

2. In our judgment, no state legislature should have more than 100 members in total; smaller states would be better served by still fewer members. In all states, sessions should be annual, without time limitations for adjournment. Committees should be few in number, organized along broad functional lines, and supplied with strong staff support. Public hearings should be held on all major legislation. Legislators should serve four-year terms and receive salaries commensurate with their responsibilities and equal to at least half that of the governor.

These measures would aid state legislatures in overcoming widespread distrust and suspicion, as reapportionments have begun to do. Smaller size would elevate membership status, increase visibility, and help in recruiting qualified candidates. Once legislatures are restructured, members should receive no less than \$15,000 annually in the smaller states, or half the pay of a Congressman. Salaries in "full-time" legislatures of larger states should be substantially higher, ranging to at least \$25,000 under current conditions. Even for part-time legislators full-time availability is required, and this should be recognized. Legislative discretion in many fields could be more readily broadened, once these steps have been taken.

3. Governors should become chief executives in fact as well as name. Except for a jointly elected lieutenant-governor, the governor should be the state's only elective executive official. He should have a four-year term, and freedom to seek re-election without restriction as to

number of terms.* He should have authority and responsibility for the development of long-range plans, program supervision, budgetary preparation and execution, and personnel management; staff and other resources should be adequately suited to these functions. The governor should have appointive and removal powers over all major executive department heads. The governor's salary should be at least that of a member of Congress (now \$30,000 annually); chief executives of larger states should receive substantially more.

To function as a chief executive, each governor must have administrative authority commensurate with his responsibility for execution of the laws. In addition to control over all executive departments and agencies—which should be few in number and organized along broad functional lines—the governor needs authority and resources to develop and implement administrative reorganization plans, subject only to legislative rejection within a brief period of time. His veto powers should extend to items in appropriation bills.

4. State court systems should be modernized by adoption of recommendations made repeatedly and consistently by study commissions reflecting the views of the judiciary, bar associations, and qualified citizens. Specifically, all judicial functions now performed by local courts should be brought into a single statewide system. Each legislature should have authority to create new courts and abolish existing ones as the need arises, and to provide for the unified administration of the entire system. Judges should be appointed for long terms. Minimum levels of judicial compensation should be sufficient to command respect.

Orderly and equitable administration of justice, both civil and criminal, is a hallmark of a stable and respected government. Responsibility for this function should not rest upon minor civil divisions. Until statewide unification occurs, the erosion of public confidence in separate state and local judicial systems—resulting from delays and miscarriages of justice—is likely to continue.**

5. Two-party competitions should be deliberately fostered in every state. Party organization and nominating procedures should receive intensive scrutiny to assure their responsiveness and representative character, and to encourage active citizen participation.

In addition to these measures, consideration should also be given

* See Memoranda by MR. JOSEPH L. BLOCK, and MR. MARVIN BOWER, pages 76 and 77.

** See Memorandum by MR. CHARLES P. TAFT, page 77.

to setting state and local election dates in years when there are no federal—or at least no Presidential—contests. However controversial any proposal concerning political parties and elections may be, we believe that greater experimentation in these fields will help establish a more important role for the states in the initiation and formulation of public policy.

6. Interstate cooperation in solving mutual problems should be exploited actively through interstate compacts. Positive encouragement should be given to counties and other local units seeking collaboration with their counterparts both within the state and beyond its boundaries. Wider adoption of uniform state laws is needed. Active experimentation with new formulas for federal-multistate cooperation should be encouraged. All these measures can be taken without constitutional revision.

The Council of State Governments could play a more aggressive role in stimulating and coordinating action in each of these areas. Unless the states and their subdivisions pursue cooperative endeavors more actively, it seems inevitable that the national government will move to solve more and more of the problems that transcend state boundaries. The extent and rate of their progress will go far to decide the future of state governments in the American system.

* * *

Stagnation and inertia have been characteristic of too many American state governments. Obsolete legislative, administrative, and judicial mechanisms have produced weak response to the needs of the people in these times of sweeping social and economic change. Each citizen has a stake in surmounting this barrier to progress. The business community has an emphatic interest in clearing away basic faults that inhibit potential growth and development of the national economy and its regional components.

This Committee finds the choice to be clear: laggard state governments must be renovated in far-reaching ways, or their policy and functional roles will tend to wither away. We believe the states should meet their responsibilities for the urgent needs of a fast-changing social order, within the application of the time-honored doctrine of federalism. But without thoroughgoing revision of archaic constitutions and sweeping modernization of governmental institutions, burdens will be thrust upon national and local governments that neither is well suited to bear.

DIVERSITY . . . SOURCE OF STRENGTH AND WEAKNESS

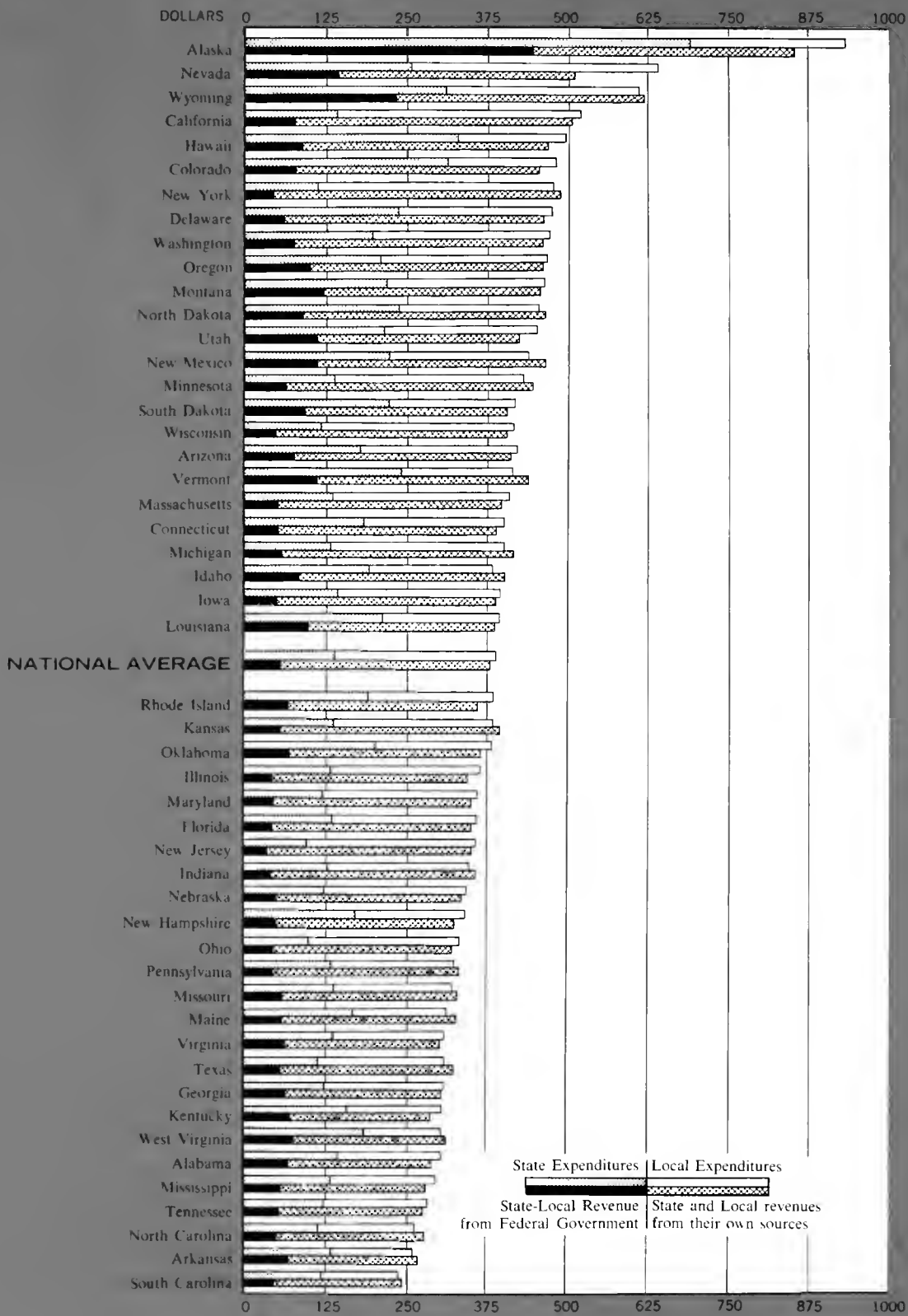
Differences in needs and conditions afford one justification for existence of the states as separate entities. Yet, variations in wealth, urbanization, area, population density, and demography bear directly on the relative capacities of state governments to function independently. Diversity within reasonable limits supports the theoretical concept of statehood. Beyond those limits it may become so extreme that the viability of states at the lower end of the spectrum is thrown into doubt.

• *Basic Differences*

Wealth may be measured best, perhaps, in terms of personal income. In the two largest states, personal income totaled over \$40 billion in 1965; three states were under \$1 billion. Average income per capita in the four lowest states—all Southern—was about half that in the highest states. The impact of this difference on state capability to provide public services, and on levels of state-local expenditure, is reflected in Chart 1. Although federal aids form a larger share of these expenditures in low-income states, they are far lower per capita than in many high-income states.

Sparsity of population is a severe handicap in states with large land areas. Highway networks and transportation of school children are

Chart I: State and Local Government Direct General Expenditures and General Revenues, Per Capita, 1964-65¹



¹ "General" expenditures exclude utility operations, liquor stores, and trust fund accounts; "direct" expenditures exclude intergovernmental payments; "direct general" expenditures exclude both categories. Total "general" revenues exclude utilities, liquor stores, and trust funds as sources, but include federal aids. Source: Bureau of the Census: *Governmental Finances in 1964-65*, p. 45; and *State Government Finances in 1965*, p. 13.

merely illustrative of a wide range of problems. State-local per capita expenditures in the three most sparsely settled states—Alaska, Nevada, and Wyoming—are much higher than in any other of the states, and are two or three times those in Indiana, Ohio, or Pennsylvania. Overhead costs, spread over a narrow base, burden those states with populations less than one million—five of them under half a million. All of them, except Maine and Rhode Island, are above the national average in per capita expenditures.

Urbanization magnifies some governmental problems—particularly when congestion reaches peak levels as in the largest metropolitan concentrations. Still, many cities with large populations as a service base can perform some functions at low per capita cost through economies of scale. New York and California have high state-local per capita expenditure levels, but such other heavily urban states as Massachusetts, New Jersey, and Rhode Island are close to the national average.

Personal income levels bear directly on capability to provide public services. Racial composition is also a factor because of low average incomes and high service needs in Negro and certain other ethnic population groups. In 1960, Negroes constituted more than 30 per cent of the population in four states, but less than 1 per cent in 12 others.

Age and sex ratios are significant, since they are related to both dependency and productivity patterns. In 1960, the average age was 33 in New York, compared with 23 in Utah. The number of males per 100 females in the total population was only 93 in New York while in 11 states it was over 100, ranging up to 132.

These and other statistical indicators—national origins, religious affiliations, mortality rates, family size, and mobility, for example—sustain the point that public attitudes, service needs, and resources available for the tasks of government vary greatly from state to state. In view of wide differences, fewer divergent approaches and distinctive mechanisms have developed among the 50 states than might reasonably be expected.

• *Governmental Patterns*

The states are alike in certain important respects. All have the same constitutional powers—those neither delegated to the national gov-

ernment nor denied to the states under the United States Constitution. All have elective governors and legislative bodies, and all have judicial systems. Beyond these elements, sweeping generalizations become hazardous.

The states display wide variety in forms of local government, though there are characteristic regional patterns. Some delegate the larger share of state-local operations to their local units of government; others conduct the bulk of such operations directly. The local governments of New York and California spend three-fourths of the state-local totals while in 14 states local units spend less than half the total. Financial relationships between state and local governments display sharp contrasts. Local units in some cases obtain half their revenue from state grants, while in other states local sources provide 85 to 91 per cent of revenues, largely through property taxation.

Only the two newest states have patterns of local government deliberately designed for modern conditions. New England states emphasize their distinctive "towns." Southern states stress a multitude of counties, most of them archaic in structure. Many other states have both towns or townships and overlapping counties, in addition to independent school districts. Almost all states have numerous municipal incorporations—half of them, across the nation, with less than 1,000 inhabitants—and the large number of special districts is increasing.

The total number of local governments in 1962 ranged from 20 in Hawaii to 6,452 in Illinois. South Dakota had the fewest inhabitants per unit of local government—only 152—placing a heavy burden on its own taxpayers in addition to the large resources it receives through federal grants. South Dakota was fourth highest in state-local revenues as a share of personal incomes in 1965; it also received \$100 per capita in federal grants, compared with the national average of \$57.

Despite regional differences in patterns of local government, the 48 older states have one element in common: none has undertaken a thorough modernization of the obsolete forms and archaic local structures prevalent alike in urban, suburban, and rural areas. The urgent need for adjustment to new conditions is clearly evident, as much in depopulated rural areas as in urban centers. But state action has been limited to encouragement of school district consolidations, to grants of permissive authority for some cities and counties to make improvements on an optional basis, or to the provision of ever larger grants-in-aid for ineffective local units. Urbanization accentuates the aggravating problems.

Of the 228 "standard metropolitan statistical areas" in the United States, 55 have more than 500,000 inhabitants. Twelve of these are located in California and New York, and they contain over 80 per cent of the population in each state. Twenty others are located in Ohio, New Jersey, Pennsylvania, Illinois, Massachusetts, Maryland, Missouri, Hawaii, and Rhode Island — all states over 60 per cent "metropolitanized." Additional states heavily influenced by large metropolitan communities are Texas with four; Florida and Indiana with two; and Alabama, Arizona, Colorado, Connecticut, Georgia, Kentucky, Louisiana, Michigan, Minnesota, Oklahoma, Oregon, Tennessee, Virginia, Washington, and Wisconsin, each with one.

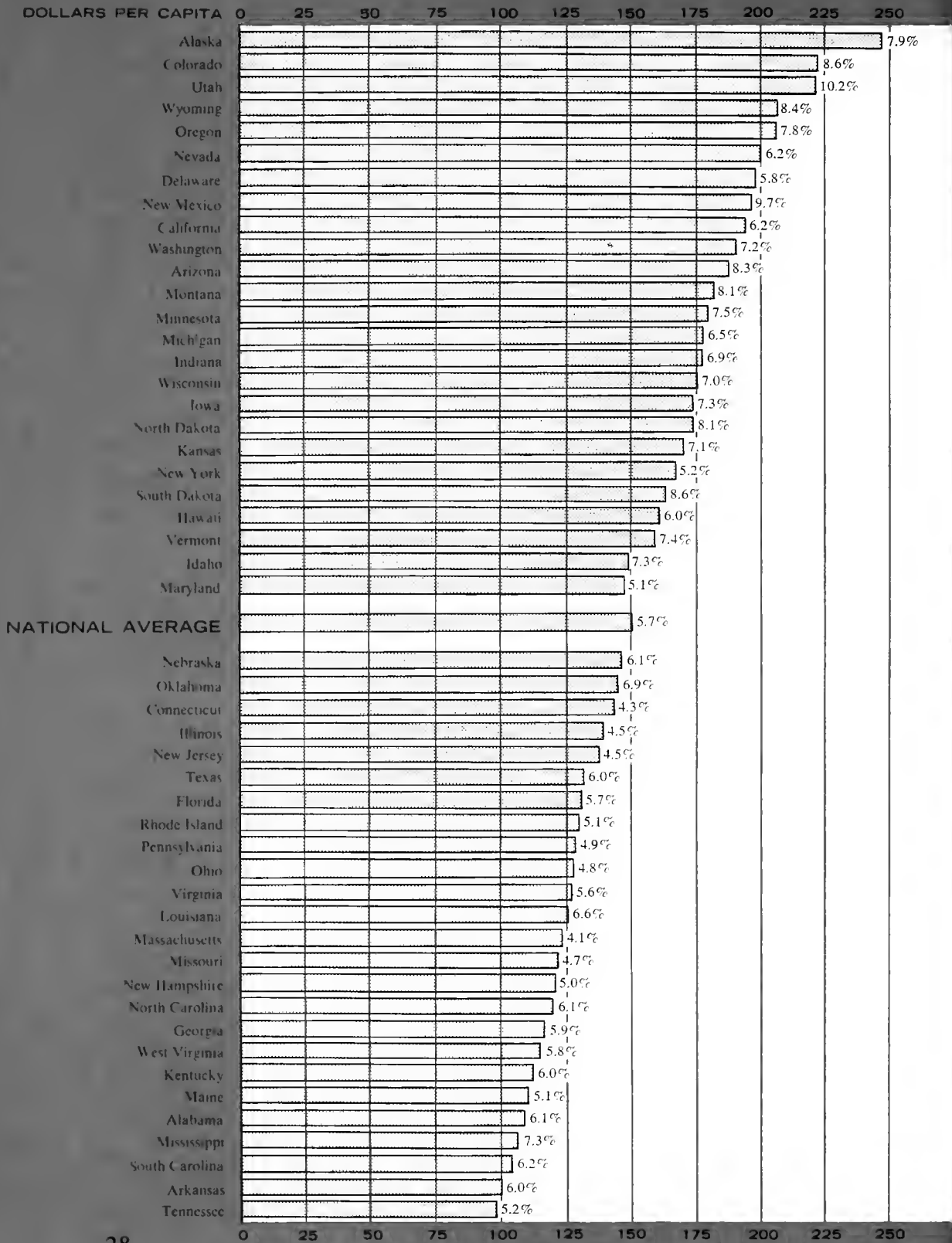
The emergence of giant metropolitan complexes, some spreading into far-flung "strip cities" stretching over hundreds of miles, requires new initiatives. But few states have done anything to rationalize the local governments serving these areas. Patterns of local government there are commonly characterized by restricted authority, chaotic fragmentation, and duplicative overlapping jurisdictions—even when the metropolitan community lies entirely within a single state. When such communities reach into two states, or even three as in New York and Philadelphia, no one state acting alone is capable of an independent solution.

• *Variations in Services*

Services provided by the states and their local units vary in range, quantity, and quality. Fifty years ago such matters were thought to be primarily, if not solely, of interest to the state or locality concerned. Mobility of population and growing economic interdependence, accelerated through expansions of commerce and travel, have modified that outlook. There is recognition of a national interest in interstate highways and other transportation facilities, in health hazards, in protection of persons and property, in encouragement of economic growth, and in many other fields. Space limitations prevent the examination of many functions in detail. But education—probably the most important function—may serve to illustrate the point.

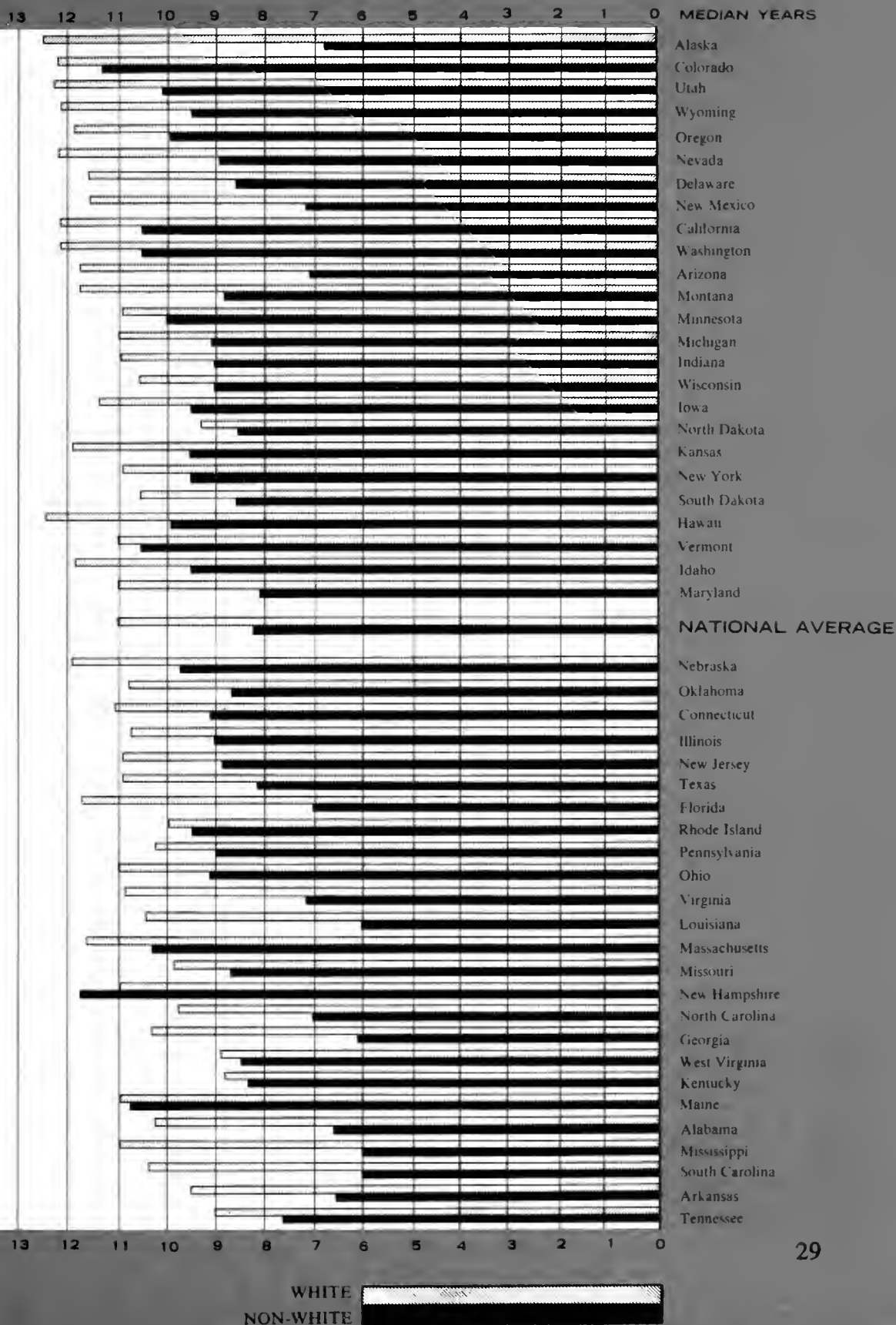
Public education is the most costly state-local function, accounting for 27 per cent of all capital outlays and 42 per cent of operating

Chart II: State-Local Expenditures for Education in 1964-65



% Figures refer to Percentage of Personal Income for Education.
Source: Bureau of the Census, *Governmental Finances in 1964-65*, pp. 46 and 52, *Statistical Abstract of the United States*, 1966, p. 114.

and Median Years of School Completed, 1960



expenditures in 1965. Almost four-fifths of these sums went for local schools, with most of the balance to state institutions for higher education. But disparities in per capita outlays among the several states are striking, as shown in Chart 2. Average costs per public school pupil ranged from \$876 in New York down to \$317 in Mississippi.

Educational opportunities are profoundly affected by these differences. Chart 2 shows a high correlation between the median years of school completed by persons over 25 in each state and its per capita expenditures for education. More than 12 years of schooling were completed in 1960 by half the white population over age 25 in eight states, all high in per capita expenditures, compared with a median of only nine years in West Virginia and Kentucky. For non-whites the chart is less consistent, perhaps because of interstate migration, but the three states with median schooling of six years or less for non-whites are among those with lowest per capita costs.

Nationally, 5.7 per cent of 1965 personal income was spent on state-local educational activities. Most states with low per capita income also are shown in the chart to be spending the least per capita on education as would be expected, although several are above the national average in percentage of personal income devoted to this function. But many high-income states, such as Connecticut, Illinois, Massachusetts, New Jersey, Ohio, and Pennsylvania, spend far below the average percentage on education. This is only partially explained by shares of pupils attending parochial schools or by economies of scale resulting from high population densities. None of the states below the national average in per capita expenditures for education approached the level of effort of the nine states using from 8.0 to 10.2 per cent of total personal income for this purpose, including such low-income states as New Mexico and the two Dakotas.

The national interest in the quality of local schools is made emphatic by heavy net migration of Negroes, with low average educational attainment and few employable skills, from the South to Northern urban centers. This migration numbered about 1.5 million persons in the decade 1950-1960, and it continues. But apart from the migration factor there is a broad national interest in the quality and extent of educational preparation, as it affects economic productivity and social stability.

Even wider differences are found among the states in their support for colleges and universities. Historically, the New England and Middle-Atlantic states placed their chief reliance for higher education on private institutions, with which they were comparatively well endowed from earliest times. The Midwestern states have followed an opposite course, with networks of publicly supported colleges and universities. The Plains, Mountain, and Far Western states have adopted the same pattern — often carrying it further. Most Southern states also accepted the principle of public support, but usually with a lower financial commitment.

More recently, the Northeastern states have begun to build, extend, and finance major public institutions of higher learning. Nevertheless, this function still shows great deviations from the nationwide average per capita state-local expenditure of \$30. The amount was under \$15 per capita in Massachusetts, New Jersey, and Pennsylvania, while it was over \$60 in three states and over \$50 in five others. There is a striking contrast between the two largest states, with California spending twice as much as New York. Moreover, a significant share of the low New York state-local costs were incurred by the City of New York for its City Colleges, although state aid to these colleges has materially increased since 1965.

This country's economic growth and quality of life have benefitted greatly by reason of an exceptional emphasis on higher education and the uniquely high percentage of the population taking advantage of it. Humanistic values, as well as the swift advance of science and technology, have been well served. State-supporting efforts have made major contributions in many cases, but the record is far from uniform.

* * *

The tasks for which the states are responsible vary widely, by reason of differences in problems faced by their citizens and the urgency of need for action. The resources available to the states also show dramatic contrasts. But most states share one common failure — persistent refusal to restructure their own governments or to modernize those of local units. There should be far more divergence and ingenious experimentation in adaptation to varying situations among the states than the nation has yet seen.

Chapter Three

REHABILITATING STATE LEGISLATURES

The 50 legislatures are beset by crucial issues, but few are organized, equipped, qualified, or even empowered to perform their policy functions with distinction. Some observers hold that initiatives in policy formation are now beyond the legislative realm, and that the main concerns of legislators should focus elsewhere. We do not accept this view, even though it does reflect prevailing practice.

Key legislators sometimes develop and pursue significant policy positions. Most members, however, limit their policy roles to acceptance, rejection, or minor modification of executive proposals and devote disproportionate attention to “oversight” of administrative actions and agency personnel. The typical legislator also spends much time and energy on services for individual constituents and interest groups, knowing that his performance may be judged more on success in these matters and on special benefits gained for the home district than on his voting record. Moreover, in some states legislators are heavily involved in patronage matters and other partisan concerns, limiting their roles in broad policy matters.

We believe that state legislatures have a primary responsibility for choices between alternative solutions for critical problems. This implies a depth of studied understanding sufficient to identify those problems requiring state action, to place priorities upon them, and to distinguish between short-range palliatives and long-range solutions. Hence, legislatures need well-qualified members, suitable patterns of organization, appropriate procedures, able staff support, and freedom from rigid constitutional restrictions.

• *Composition*

During the Revolutionary War, and for some time thereafter, membership in a state legislature was highly regarded. Men of personal distinction, comparative wealth, and high social status were pleased to serve.¹ Public opinion polls, if available at that time to identify the “100 leading citizens” in each state, would have found a high proportion in the legislatures. That outcome would be quite unlikely today. We do not favor limitation of public office to an elite group of any stamp; but we believe the states would be better served by legislatures with larger proportions of persons noted for exceptional qualities of intelligence, energy, initiative, character, and breadth of successful experience.

Few Americans aspire or can afford to serve in legislatures as they now function. Regular sessions take two or three full months each biennium, and special sessions are frequent. Pay is low—in some cases unbelievably so. Only persons able and willing to forsake their private pursuits for public service with nominal compensation, or who see opportunities to advance their careers or other interests, can accept membership in most of these bodies. Turnover, often voluntary, is high; from one-third to one-half the members of the *average* state legislature are “freshmen.” Seventeen state legislatures, representing every section, had the following occupational composition in 1966.²

	HOUSE	SENATE
Lawyers	29%	42%
Farmers	13%	10%
Insurance	7%	5%
Teachers	4%	3%
Real Estate	4%	2%
Laborers	4%	1%
Merchants	3%	3%
Retired	3%	2%
Housewives	3%	1%
Doctors and Engineers	2%	3%
Bank and Trusts	2%	1%
All Others	26%	27%

1 For example, the membership roster of the Virginia House of Delegates in 1787-1788 contains the following names, among others:

Abraham Bird	Patrick Henry	Thomas Macon	Thomas Nelson, Jr.
Daniel Boone	Samuel Hopkins, Jr.	John Marshall	Thomas Scott
William Cabell	James Knox	Thomas Marshall	Merewether Smith
Edwin Gray	Ludwell Lee	George Mason	Bushrod Washington
Benjamin Harrison	Richard Lee	James Monroe	

2 Citizens Conference on State Legislatures, “Occupations of Legislators During 1965-1966 Biennium” (unpublished study).

• *Reasons for Low Visibility and Weak Performance*

The “visibility” of state legislators is remarkably low. Far fewer citizens can name their state representatives than their Congressman or city councilmen. The states are not thought of as centers of action; problems seem to be increasingly national, regional, or metropolitan in scope. But there are other plausible explanations for low visibility and lack of legislative prestige.

Before 1962, state legislatures had become increasingly unrepresentative in composition—a condition that recent reapportionments have helped to correct.

Such factors as extremely low pay, severely limited legislative sessions, and lack of adequate staff or supporting research competence have led to low esteem for legislatures and loss of confidence in the resulting product.

Many legislatures are unwieldy in size, which detracts from the prestige of membership in them.

Few are well organized to discharge their responsibilities.

Legislative committees give less intensive examination to proposed legislation than Congressional committees commonly provide; preliminary staff work is often casual, and testimony from acknowledged authorities is rarely solicited.

Undue attention is often given to detailed examination of administrative operations, petty local issues, and financial aspects of minor state operations—diverting energies from major policy matters.

The influence of pervasive and powerful legislative lobbies is notorious, even though the frequency of bribery and unseemly revelry has been exaggerated.

Those who seek improper gain as members, often obtain more public exposure than those who contribute dedicated public service at considerable personal sacrifice.

Whether legislative failures are due to restrictions on their powers—or whether powers have been limited because of shortcomings in personnel, organizational procedures, and other factors—there appears to be universal agreement on the need for reform. A fixed prescription for remedy would be inappropriate, however, because of wide variations from state to state. Ideally, each state should adapt its legislative institutions to its own problems and situations.

• *Obligations of an Effective Legislature*

It is obvious, we believe, that each state legislature has responsibility for making policy decisions on matters of major concern to people of the state. This cannot be done if the focus is on administrative trivia or matters of local concern. Rather, state legislatures should give due attention to those interrelated activities summarized below, which are directly associated with their broader responsibilities.

Identification of Major Issues. Initially, each legislature must identify issues in major problem areas and review those emphasized by the governor, for exploration in committee and in formal debate.

Research. Each legislature must establish a research capability—utilizing resources available within the executive branch, in universities, in private organizations on a contractual basis, and within its own professional staff—to get full information on major state problems and on alternative solutions.

Program Authorization. Administrative agencies should be required to submit long-range programs for legislative authorization, subject to periodic review and subsequent revision.

Budget Consideration. Spending proposals should be reviewed in relation to anticipated revenues, previously approved long-term plans, and the needs and desires of the public.

Financial Audit. The legislature should appoint the state's post-auditor to review government transactions after completion, as private accounting firms examine corporation accounts.

Executive Oversight. Through hearings on authorizations, consideration of the budget, and review of the financial audit, executive improprieties can be uncovered without legislative infringement on executive prerogatives or administrative discretion and without inordinate burdens on legislative time; ad hoc committees may be used where special investigations are warranted.

• *The Structure of State Legislatures*

Size. Most legislatures are far too large; only ten have 100 members or less, while eight have over 200. (See Appendix Table I.) New Hampshire has one legislator for every 1,500 inhabitants in its lower house, in contrast to one for every 200,000 in California. There is little merit in trying to set an arbitrary optimum on the number of people each member of a legislature should represent, but the size of each body affects its ability to function effectively. Fewer members permit more individual participation, improve deliberation, elevate the importance—and hence the quality—of membership, lead to better compensation, and facilitate stronger staffing. In our view, no legislature should have more than 100 members. Small states and those with unicameral systems may obtain adequate representation with far fewer than that number.

Unicameralism. Many states may choose to retain bicameralism to preserve a double check and a more deliberate pace, or to permit a different type of representation such as cumulative voting or the multi-member district for one of the houses. But some may decide to use the unicameral system. Besides simplifying apportionment, unicameralism eliminates deadlocks resulting from rivalry between two houses and the last-moment conference committees trying to resolve them. Adoption may attract better candidates by increasing prestige and visibility, and it would certainly compel reconsideration of the entire legislative process.

The citizens of Nebraska seem well satisfied with their unicameral legislature, established in 1937. Most Canadian provinces and American municipalities use the unicameral system. Several great cities with unicameral councils have larger budgets and more employees than the average state.

Apportionment and Districting. Legislative districts should be closely related to local interests. But when political subdivisions are used as representational districts, without regard to population, great imbalances result. Disparities in Vermont, for example, approached 1,000 to one before reapportionment.¹ Party organizations should be brought into conformity with equitable districts, rather than the reverse. Gerrymandered districts can result in representational imbalances almost as serious as malapportionment on a population basis.

Constitutional provision might well be made for *mandatory* decennial legislative reapportionment and redistricting by an independent commission appointed by the governor, as in Missouri. The role of the legislature should be limited to amendment of the proposed plan within a specified time, relieving that body—at least initially—of painful decisions certain to affect individual members adversely. Under this plan judicial intervention would become the rare exception.

Sessions. Only eight states—Alaska, California, Massachusetts, Michigan, New Jersey, New York, Oklahoma, and South Carolina—now provide for annual general sessions of unrestricted duration. (See Appendix Table 2.) All states with heavy work loads need this kind of legislative freedom, and it would be highly desirable in smaller states with legislatures composed of citizen-members. In both cases, it would ease the pressure on members who must sometimes cast 40 or more votes in a single day.

Unrestricted annual sessions allow time for detailed study of major problems and more careful review of bills proposed to solve them. They afford more days and weeks for deliberations and they eliminate the long, twenty-month period in which no legislative determinations are possible without the governor's initiative. They reduce the flood of hasty and ill-considered legislation in the waning hours of a session without the need for clock-stopping tactics to permit adjournment by a fixed deadline. They also allow continuity and more effective use of research and secretarial staffs. More careful attention can be given to budget matters with annual budgets replacing biennial appropriation patterns; to prevent undue delays, specific deadlines may be set for financial enactments.

¹ It is noteworthy that equitable redistricting may help in overcoming opposition to revision of local boundary lines, as a major by-product.

This Committee holds that the size of most legislatures should be drastically reduced with no more than 100 members in larger states and substantially fewer in the smaller ones. States should give consideration to unicameralism. Every state should provide for mandatory decennial reapportionment and redistricting of its legislature, preferably by authorizing the governor to appoint an independent commission for this purpose. We further recommend that every state legislature meet in annual general sessions of unlimited length, with fixed deadlines limited to revenue and appropriation measures.

• *Part-Time versus Full-Time Legislatures*

The presumed advantage of limited-session legislatures is that highly qualified citizens, taking brief leaves-of-absence from their normal occupations, may be attracted to serve. The validity of this point is questionable, however. Attorneys, farmers, retired persons, housewives, labor leaders, realtors, and insurance agents may overcome the general rule of conflict between career or employment commitments and “part-time” legislative service. Naturally, under present conditions such occupational groups have tended to predominate. This is hardly ideal. Broad experience in a wide variety of modern institutions and affairs should be more characteristic of membership than at present.

Smaller States. States with small populations—and those least industrialized or urbanized—without a work load to justify a “full-time,” year-round legislature can make legislative service more attractive to outstanding community leaders by replacement of biennial 60- or 90-day limited sessions with brief periodic meetings scheduled throughout the year. Where the state capital is readily accessible to most members regular meetings may be held one or two days each week, as in New Jersey. Even those in occupations which now predominate in legislatures may find it more convenient to serve when sessions are held two days a week, the year around, than in brief but over-burdened biennial periods. This minimizes time lost from private pursuits and should produce a better occupational balance among legislators.

Larger States. Legislatures have heavier work loads in the larger states. Michigan legislators averaged from 50 to 59 hours a week on legislative business during the 1965 session, and from 30 to 39 hours between sessions.¹ This is a “full-time” assignment, which no part-time “citizen-legislator” should be called on to assume. In such states legislators have roles comparable in some respects to those of members of Congress.

In our view only smaller states or others with light work loads should rely on part-time “citizen-legislators,” meeting periodically throughout the year. Legislators in large states have a “full-time” assignment; hence, sessions, organization, and all other arrangements should be ordered accordingly.

• *Compensation and Office Space*

Salaries and Expenses. Most legislators receive wholly inadequate salaries. Appendix Table 2 shows that annual compensation is \$5,000 or less in 35 states, and under \$2,000 in 18 of these. Some members are paid less than legislative doorkeepers or capitol janitors. Others are known to supplement salaries through unemployment compensation or even as racetrack ushers. Adjustments are made difficult in many cases because salaries are fixed in state constitutions.

Such conditions are demeaning and unconscionable. They must be corrected if state legislatures are to have real significance. Adequate compensation will vary from state to state depending on the choices that have already been discussed—including the amount of time required for legislative duties. Assuming acceptance of the associated reform measures recommended, we propose an annual salary base in each state *not less than half that of the governor*. Since we recommend in this statement that governors be paid no less than Congressmen, it follows that \$15,000 should be the current minimum legislative salary. Salaries in the larger states should be at least \$25,000 annually. In all states, members should have suitable allowances for travel and other expenses incurred in line of duty. Such compensation is not high, considering that all legislators are on a “full-time availability” basis, and recognizing that campaign financing is a stern reality.

¹ *Report of the Special Commission of Legislative Compensation*, Lansing, Michigan, 1966, p. 12.

Salaries can be raised to these levels without substantial increases in operating expenses if the size of legislative bodies is reduced. Minnesota could triple each legislator's compensation to \$15,000 annually without raising total salary outlays by replacing its 202-member bicameral body with a 70-member unicameral legislature. And if New York raised its legislators' salaries from \$15,000 to \$25,000, while cutting the membership from over 200 to 100, total payments could be reduced by \$605,000 with each member continuing to receive a \$3,000 allowance for expenses. Suitable salaries will appeal to potential candidates whether qualified or not, but those who receive comparable or higher compensation in private endeavors would be more likely to seek legislative careers if pay were not outrageously low.

Better compensation should be conditioned upon avoidance of any potential conflict of interest. All sources of outside income should be subject to public disclosure, along with associations that they or their immediate families may have that might imply a "special interest." Legislators should "stand aside" from participation in any decision benefiting their special private interests. Beyond question, each state should require lobbyists to register and report all expenditures—direct or indirect—while serving in this capacity, under stiff penalties for violation.*

Formal Leadership. Whether organized under two-party or one-party auspices, each legislature has some 10 to 20 key leaders who, through personal qualities or long service, hold crucial posts as speakers, presidents-pro-tempore, whips, and caucus or major committee chairmen. Most legislators have little or no prior experience, and many act as though they were bystanders rather than responsible participants. Hence, key individuals hold decisive powers and carry a heavy responsibility. Their special contributions should have full recognition through formal titles and added compensation. Rules requiring frequent rotation in such positions as speaker ought to be discouraged, since they hinder development of strong legislative leadership.

Facilities. Once the legislature is reduced in size, each member should be assigned private office space where he may review legislation, prepare speeches, and discuss matters with associates and constituents. Each major standing committee needs its own meeting room, with large hearing rooms available for special occasions. Library resources are

* See Memorandum by MR. S. ABBOT SMITH, page 77.

necessary for use by members and committee staffs. Galleries for public observation and facilities for newspaper, radio, and television reporting are obvious essentials. States without suitable space in their capitols may well follow the example of North Carolina and construct a separate building to house legislative activities.

We believe that a state legislator's annual salary should be at least half that of the governor, and in no case less than \$15,000, supplemented with suitable expense allowances. Additional sums should be paid to key legislative leaders. We also recommend that adequate legislative facilities be provided, including private office space for members and meeting rooms suited to committee needs.

• *Committees*

Most legislatures have fragmented their committee patterns; 35 have more standing committees than the United States Congress. (See Appendix Table 3.) Moreover, many committees are far too large. This forces some legislators to serve on six, eight, or even as many as 15 different ones. A member may feel that this enhances his prestige in the eyes of constituents, but the common practice of holding simultaneous meetings prevents attendance at more than a few. Careful consideration of pending legislation becomes difficult if not impossible.

Reducing the size of the legislature would compel cuts in the number of committees and their memberships, which encourages greater use of committee-of-the-whole-house procedures. Each house of the Alaska legislature has only nine committees. Committees should be organized along broad functional lines with parallel jurisdictions in each house to permit joint hearings—and joint committees—in order to avoid duplication and facilitate final agreement. Although this has special value in budgetary matters, Connecticut uses the joint committee system for all 28 of its standing committees.

Committee membership should be roughly proportional to total party strength in the legislature, each party making its own assignments through its caucus or leadership. Legislators should be assigned to committees on the basis of their background and experience. Every committee should be able to select its chairman without being forced to accept the member with most seniority. Where used, gubernatorial appointment of chairmen should be discontinued to avoid executive domination. Moreover, frequent rotation of chairmanships is harmful.

Hearings. Hasty actions without careful study will discredit any legislature. This is well illustrated by New York State's 1966 "medicaid" legislation. cursory committee hearings held in advance were later followed by extensive hearings *after* enactment, in response to widespread public outcries against specific features of which few legislators had been aware. Provision for well-publicized committee hearings on all major legislative proposals is a minimal requirement. Full success will depend on careful advance planning and preliminary background research by competent staff. Interested groups and any individual or organization with expert knowledge should be called upon to present their views publicly rather than behind the scenes. Testimony and legislative debate should be fully recorded for future reference, as in Pennsylvania. Some 90 per cent of basic proceedings are now unrecorded, leading to later difficulties in judicial interpretation.

Staff Support. State legislative committees generally lack any professional staff to arrange hearings, conduct research, prepare reports, or assist in formulating policy alternatives. Lack of independent research capability forces the legislature to depend too heavily upon the governor, executive departments, and special interest groups for advice and information. Without staff to schedule calendars, they become so crowded and confused that it is difficult to ascertain the status of a particular bill. Bills are often lost in committee, sometimes reappearing at the end of the session for hasty last-minute action.

Lack of funds cannot explain the failure of most legislatures to employ able assistance. The California legislature spent \$11.6 million in 1965; New York \$10.4 million; Massachusetts \$6.0 million; and Pennsylvania \$5.3 million. More than half the states spent over one million dollars on their legislatures. Legislative funds are often used to support large numbers of messengers and doorkeepers—patronage positions for the majority party. Even when professional staff "positions" are established, they are sometimes filled by unqualified relatives of members.

When standing committees are few, each may be provided at relatively modest expense with a full-time professional staff—selected on a merit basis—to investigate problems, analyze data available from executive agencies, schedule hearings and debate, and advise members on alternative courses of action. Another solution, particularly applicable to smaller states, is the establishment of a single central staff unit,

adequately manned to serve all committees. Legislative council staffs, composed of highly qualified professionals, have made important contributions in several states. Staff resources may be supplemented in specialized fields through contracting for research on specific subjects with private firms and universities. Student interns from cooperating universities may also render useful service, as is now done in some states, creating a potential supply of future employees and providing active liaison with university research centers.

A vital element in upgrading legislative performance is the maintenance of a legislative reference bureau staffed with experts to provide resource materials, answer general questions, draft bills, and give technical advice on proposed legislation. Creation of strong central and committee staffs, and provision of secretarial pools to assist members with their correspondence are more important than employment of one or more personal assistants for each individual member.*

We recommend that state legislatures limit the number and size of their committees, organizing them along broad functional lines, and assigning parallel—or joint—jurisdictions to them in bicameral bodies. Information-gathering capabilities should be improved through open hearings on all important legislative proposals, more competent committee staffs, research arrangements with universities or private firms, and cooperative agreements with other states.

• *Constitutional Restrictions on Legislatures*

Many state constitutions restrict the legal powers of the legislatures, particularly with respect to fiscal matters. For example, the constitutions of Florida, Illinois, Michigan, Nevada, New Hampshire, Pennsylvania, Tennessee, and Washington prohibit enactment of a *graduated* income tax.¹ Alabama's constitution earmarks 87 per cent of all state revenues for specific purposes, limiting legislative discretion to only 13 per cent; half of the other states have significant earmarking restrictions in their constitutions.

* See Memorandum by MR. CHARLES P. TAFT, page 77.

1 Advisory Commission on Intergovernmental Relations, *Federal-State Coordination of Personal Income Taxes* (Washington, D.C.: U.S. Government Printing Office, 1965), pp. 154-61.

Borrowing by legislative enactment is limited to \$100,000 in Wisconsin and \$400,000 in Washington. In many cases, special authorities with bonding powers have been created to circumvent such limitations, but interest rates are generally higher on such bonds than on those issued by the state on its "full faith and credit." Moreover, the practice tends to encourage waste, since these authorities operate outside the regular budget.

No such restrictions are found in the national Constitution. Those in state constitutions were established largely because of recurrent charges of legislative venality and corruption. Reorganization of state legislatures into stronger bodies commanding public confidence would remove any reason for constitutional limitations. Renovated legislatures should have authority to enact those taxes deemed appropriate and to make appropriations without earmarking restrictions through use of a single general fund, as in Georgia and New Jersey. Constitutional debt restrictions could at least exempt self-liquidating capital-improvement issues from popular approval, as well as other bonds not exceeding a small percentage of the state's operating budget.

We recommend that constitutional restrictions preventing state legislatures from exercising effective power over financial matters be removed.

* * *

It is hard to exaggerate the urgency of rehabilitative reform for most state legislatures. Manned by outstanding citizens, served by able professional staffs, using the intellectual resources abundantly available in every American state, the legislatures would be capable of dealing responsibly with vital issues. A federal system in which the states are an active, constructive element will not endure without legislative competence.

MAKING CHIEF EXECUTIVES OF WEAK GOVERNORS

Executive leadership of the highest order is imperative in any large-scale organization. This familiar concept is well recognized in the national government, in large cities, and in business firms. But few governors have constitutional powers or managerial tools commonly associated with the concept of “chief executive,” although most have great influence as political leaders. Comparable weakness in executive authority is largely confined to the more archaic forms of local government.

The role of “chief executive” consists of a number of elements, interrelated in complex ways. It encompasses development of a broad policy perspective over the organization’s proper scope, establishment of major goals, formulation of plans and programs, achievement of maximum agreement on specific objectives among all concerned, and the mobilization, coordination, and over-all supervision of available human and material resources for carrying out decisions promptly and efficiently.

The governor’s role in public policy-making is three-fold. He leads in formulating public opinion and in establishing major goals on the strength of his personality and through such instrumentalities as his political party. He draws upon the knowledge in state agencies and elsewhere in translating broad policy goals into more detailed proposals. Then, in intimate day-to-day dealings with state legislators, as well as

through formal messages and the veto power, he shares in the legislative process. But even in policy matters most governors labor under handicaps not shared by the President, strong mayors, or top corporate executives.

Governors commonly have even less authority in administrative management, and as a result they are unable to see that "the laws are faithfully executed." Key state agencies are often wholly independent. Organizational structures are seldom suitable. Instruments for planning, personnel management, and financial control are often weak and sometimes nonexistent. Political pressures are a poor substitute for formal authority or competent staff support in the tasks of executive management. Status factors, including limitations on tenure and salary, have a significant bearing on gubernatorial influence both in policy matters and in administrative management. Combined with restraints on authority over operations, such limitations leave many governors unable to fulfill public expectations for executive performance of a high order.

These weaknesses may be traceable, in part, to 18th century reactions against governors appointed by the crown or by colonial proprietors. Later, the theory of Jacksonian democracy encouraged diffusion of administrative powers among many elective officials at state and local levels. But negativism toward executive authority in the first century of national independence has not prevented effective concentration of administrative powers in the hands of mayors, city managers, or the President in this second century. The states are laggard in modernization.

• *Status Limitations*

Tenure. Constitutional limitations on tenure handicap the governor in 24 states; in 11 he is restricted to a single four-year term, in two others to no more than two successive two-year terms, and in still 11 others to no more than two successive four-year terms. Nine additional states have no constitutional barriers to self-succession but limit the term of office to only two years, which makes continuous campaigning compulsory and survival for more than four years in office quite unusual. Only 17 states allow their voters to keep a governor in office for a third consecutive four-year term. (See Appendix Table 4.)

Such handicaps—at their worst giving an incoming governor, limited to one term, “lame duck” status the day after his inauguration—disregard the need for continuous long-range policy planning. The value of experienced managerial leadership is also discounted. States fortunate enough to have outstanding governors are denied the benefits of continuing service. We believe that all governors should have four-year terms, with the right to seek re-election without restriction as to number of terms.*

Salaries and Perquisites. In recent years some states have elevated gubernatorial salaries from disgracefully low levels, but in most they are still inadequate. The ten lowest paid governors have salaries ranging from \$10,000 in Arkansas to \$19,800 in Georgia; eight others receive \$20,000 per annum. (See Appendix Table 4.) In these 18 states, gubernatorial compensation is less than that provided in the national government for all 500 positions on the “executive pay scale.” It is also below the average in each of the four highest grades in the federal career services, numbering 30,000.

Only 13 states pay their governors salaries as high as the \$30,000 paid members of Congress. Congressmen also have a \$3,000 annual expense allowance. Only California, Illinois, New York, Ohio, and Pennsylvania provide compensation in the \$40,000 to \$50,000 range. Executive residences are provided for most governors, but this perquisite scarcely balances the incidental costs of office.

Even in the smallest state the governorship is a full-time post, and its occupant should not be expected to draw upon his private means or to “moonlight” for a living. Adequate compensation will vary from state to state, depending in part upon prevailing executive pay scales and on customary social, charitable, and political demands on the governor’s income. Certainly, the governor’s salary should not be less than that of the best-paid position in his state for mayors, city managers, postmasters, superintendents of schools, and university presidents. Governors should not receive less than members of Congress, and in larger states they should be paid substantially more.

We strongly recommend four-year terms for all governors and elimination of constitutional bars to self-succession. In our judgment, no governor should be paid less than members of Congress, and larger states should provide substantially higher compensation.

* See Memorandum by MR. JOSEPH L. BLOCK, page 76.

• *Policy Leadership*

Americans expect their chief executives to exert vigorous leadership in the formulation of public policy. In notable cases governors have given such leadership. One example is Governor Aycock's advocacy of public education in North Carolina at the turn of the twentieth century, with its enduring impact. Many governors play major roles in national politics; among New York's governors in this century, Theodore Roosevelt, Charles Evans Hughes, Alfred E. Smith, Franklin D. Roosevelt, and Thomas E. Dewey were all presidential nominees. But New York has long been exceptional in the powers and staff support extended to its governors. Most governors are relatively handicapped, even in the preparation and presentation of comprehensive plans.

Plans and Programs. The governor is normally inaugurated early in January, following a November election. He is expected to go before his legislature almost immediately to present his programs and plans for action for the ensuing year or biennium. Without advance access to the resources of any line department, facing the machinations of competitive independently elected executive officials, and lacking any central planning staff or a strong budgetary unit, he can hardly be expected to make effective use of this opportunity to discuss state problems with his legislature, face to face. Neither is he capable of delivering an authoritative "state of the state" message to the citizens—a responsibility each governor should fulfill annually.

To overcome these limitations, each incoming governor needs two or three months in office before the first regular legislative session opens. Florida and Alabama delay their regular sessions to April and May, respectively, for this reason, although Florida holds an organizational meeting shortly after the November elections. Tennessee has instituted a similar pattern; its legislature convenes in January for a 15-day organizational session and then adjourns until late February to give the governor time to prepare his program. This also provides legislators with additional time to canvass constituent views and to hold committee hearings on major state problems. It is quite obvious that each governor-elect should be provided with funds to pay prospective staff appointees and others assisting in the difficult transitional period.

The Veto. All states except North Carolina give their governors power to veto legislation, but in six a simple majority of the elected membership in each house is sufficient to override. We believe that a veto should have greater weight, with at least two-thirds of those present and voting—or a three-fifths majority of the elected membership—in each house being required to override. At the same time, the unlimited annual sessions we have recommended would minimize the governor's end-of-session opportunity for absolute or "pocket" vetoes.

The governors of 41 states can veto *items* in appropriation bills, and Pennsylvania's chief executive may reduce any item. These are commendable arrangements, and we urge their universal adoption.

The first regular legislative session after a gubernatorial election should be timed to permit preparation of detailed executive plans and programs. Every governor should have power to veto general legislation, with at least two-thirds of those present and voting or a three-fifths majority of the elected membership of each house required to override. This power should include elimination or reduction of items in appropriation bills.

• *Administrative Authority*

Each state has an extensive administrative apparatus, engaged in a widening variety of activities. Collectively, the states employ over 2.2 million persons—ranging in 1966 from 5,700 in Nevada to 210,000 in California. Quite probably, these numbers may double within a decade.

Executive management of the complexities of state government would be difficult enough under the best of circumstances. Structural fragmentation amounting to chaos, departmental independence bordering on anarchy, and absence of suitable tools for planning, personnel management, or financial control render an effective administrative performance almost impossible for most governors. In the public mind governors are responsible for the businesslike conduct of affairs, but fewer than a dozen states have given them either authority or the institutional mechanism commensurate with executive responsibility.

The grant-in-aid system makes the effects of structural obsolescence and lack of unifying executive authority more obvious. The com-

plexities of intergovernmental finance and the ensuing administrative entanglements have produced a phenomenon described as “functional government.” Highway planners, welfare commissioners, health officers, educators, and other groups of professional personnel—each concerned with a particular function—form hierarchies apart. State officials are likely to communicate more frequently with their counterparts in the national government and in local units than with the governor or other state agencies.

Interfunctional coordination at each level of government is weakened in formulating plans, seeking revenues, or executing programs. In many instances, policies and formulas for financial support have become so complicated or sacrosanct that no chief executive or legislator dares to challenge them; revisions are usually made through joint agreement by the functional specialists concerned. Poor structural organization aggravates this situation.

Simplifying Structures. The states have an average of 85 separate state agencies and five independently elected department heads. Administrative boards are numerous; members commonly have terms that overlap and extend beyond the governor’s, and in many cases they are elected or chosen in ways beyond the governor’s control. North Carolina provides an example of unfortunate organizational patterns, as shown in Chart 3. Executive authority is divided among the governor, eight popularly elected department heads, and some 160 boards, commissions, councils, committees, and other bodies.

The administrative pattern of New York (as shown in Chart 4) is far superior, although it could not be described as ideal. Other than the governor and lieutenant governor—selected as a team—only the attorney general and the comptroller are elective. Except for their departments and the Board of Regents, the governor has direct control over the executive branch. Major departments are comparatively few, but there are numerous minor units reporting directly to the governor. Administratively, more states resemble North Carolina than New York.

Effective coordination will require departmental consolidations along broad functional lines, and appropriate internal reorganization for each department. At least as a transitional measure, several related agencies may be grouped within a single “superdepartment,” as was done recently in Michigan. Fewer departments reduce the span of control and permit more effective supervision by the chief executive.

Selection of Officials. Independently elected department heads, with spheres of competitive administrative authority, are thorns in the governor's side. Only Alaska, Hawaii, New Jersey, and Pennsylvania elect no other executive official independently (excluding auditors). The other 46 states have from two to ten major department heads elected directly by the people or by the state legislature. (See Appendix Table 4.) It seems axiomatic that the governor should be able to appoint, control, and remove all major department heads; effective coordination of administrative activities is impossible without a unitary executive. The political ambitions of independent officials often throw them into conflict with the governor and handicap him in preparing policy proposals and gaining approval for them.

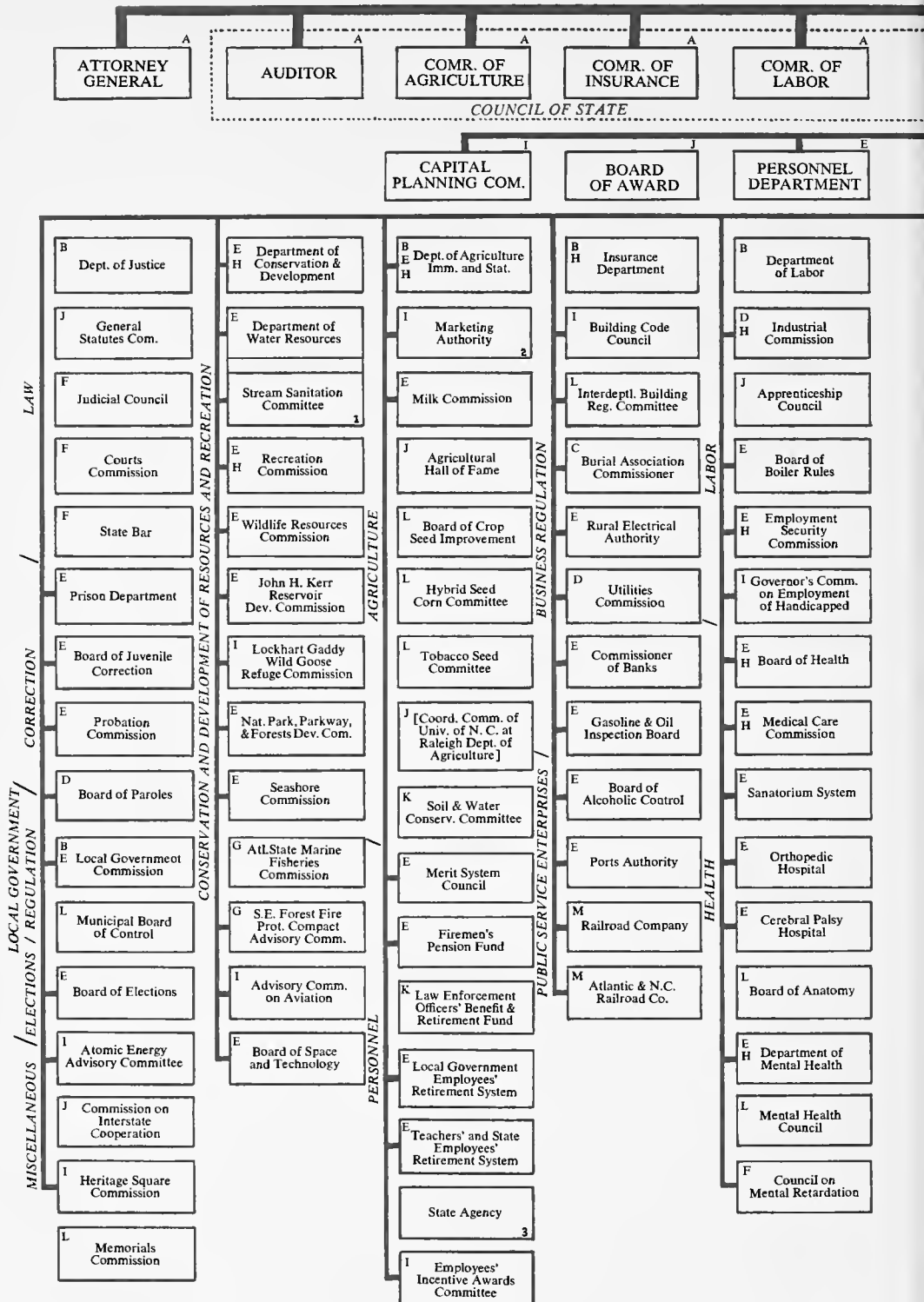
Boards and Commissions. The governor's control of the state's administrative apparatus is often frustrated through a complex system of boards and commissions. Boards of social welfare, state highway commissions, boards of education, and the like may have three, five, seven, or more members appointed by the governor for long, overlapping terms. A governor may appoint only one member of each board every year or two, and in the normal course of events he leaves office before naming a majority. Governors lack real authority over such agencies. Yet they may be unfairly held responsible by the public for poor performance.

Whenever this subject is raised, special leaders converge from many directions to insist that executive authority over a particular function should be withheld from the governor. Whether for agriculture, highways, education, mental health, licensing of professions, corrections, welfare, or any one of countless others, it is argued that there is a special case for insulation of the function against the "political influences" the governor might bring to bear. Forgotten in such cases are the potent and extensive political influences that seek independence from authority or public responsibility of any kind.

Benefits may be gained from well-qualified advisory boards, and their use should be encouraged. Regulation of public transportation systems, utilities, and local boundaries, for example, may be best handled through commissions vested with rule-making and quasi-judicial powers; but attempts to conduct direct administration through such bodies cannot be condoned. Even licensing of professions and skills (law, medicine, architecture, accountancy, and cosmetology, for exam-

Chart III:

North Carolina State Government



Letters

- A Officer elected by the people (10)
- B Agency headed by elected officer (6)
- C Agency with single administrator appointed by Governor; no governing board (7)
- D Agency consisting of full-time board or commission appointed by Governor (4)
- E Agency with single administrator and part-time governing board, of which Governor appoints all or majority of members (77)

- F Agency with single administrator and part-time governing board, of which Governor appoints minority or none of members (15)
- G Agency created by interstate compact (4)
- H Agency with part-time advisory board (13)
- I Agency consisting only of part-time board, of which Governor appoints all or majority of members; no full-time agency staff (32)

- J Agency consisting only of part-time board, of which Governor appoints minority or none of members; no full-time agency staff (14)
- K Ex officio board with full-time staff (5)
- L Ex officio board with no full-time staff (11)
- M Corporation in which State is majority stockholder (2)

VOTERS

Administrative Organization

INSTITUTE
OF GOVERNMENT
CHAPEL HILL
JULY 1, 1963



FOOTNOTES:

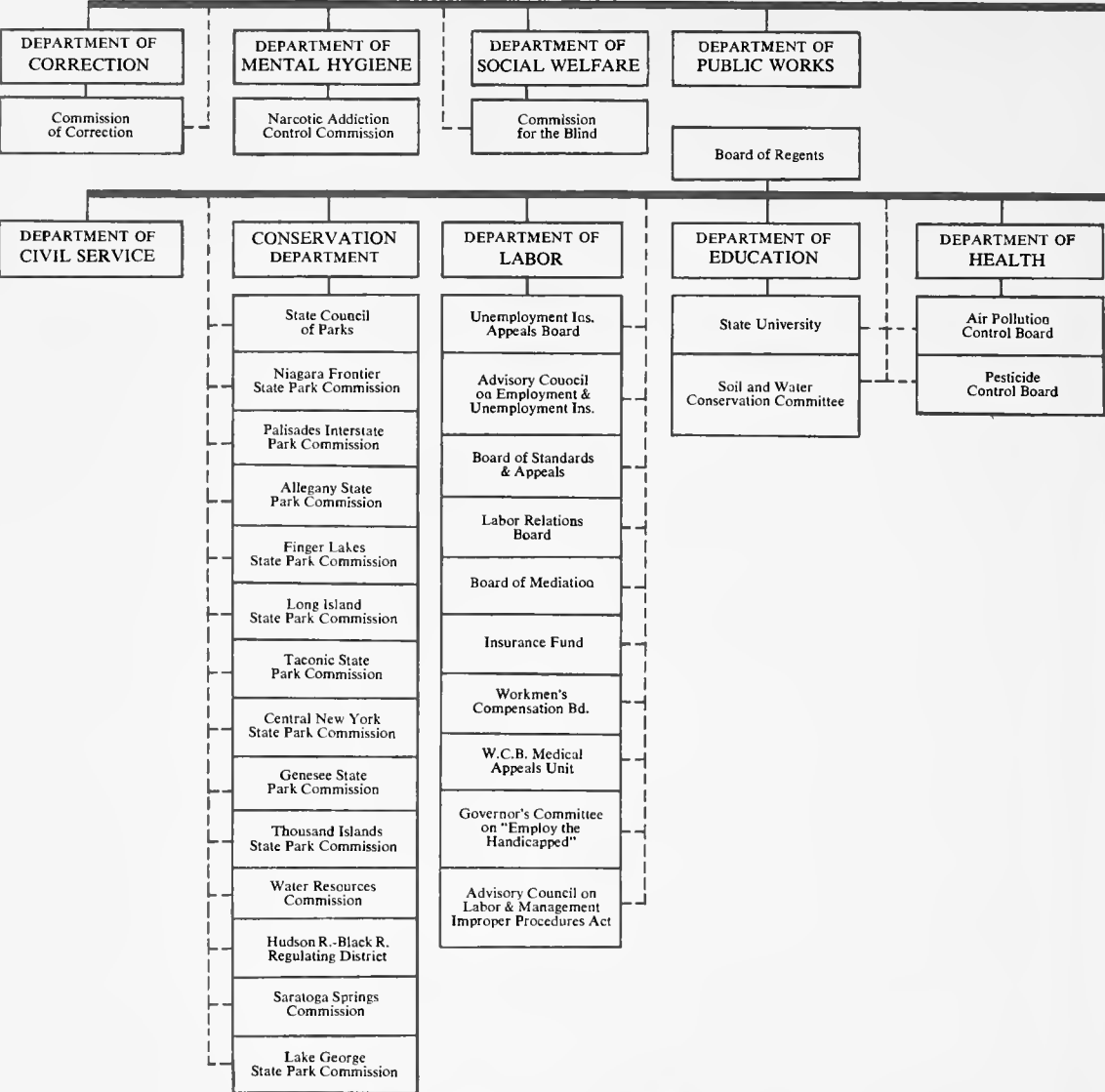
1. Appointed by Governor, but part of Department of Water Resources.
2. Inactive.
3. "State Agency" is Secretary of Board of Trustees of Teachers' and State Employees' Retirement System, ex officio.
4. Consists of all active members of organized fire departments in subscribing municipalities.
5. Part of State Board of Public Welfare.

Omitted: Advisory boards and committees attached to listed agencies, temporary study commissions, agencies not created by constitution or statute, and agencies essentially local in nature (such as community colleges and boards of navigation and pilotage).

Chart IV: State of New York
Organization of the Executive Branch

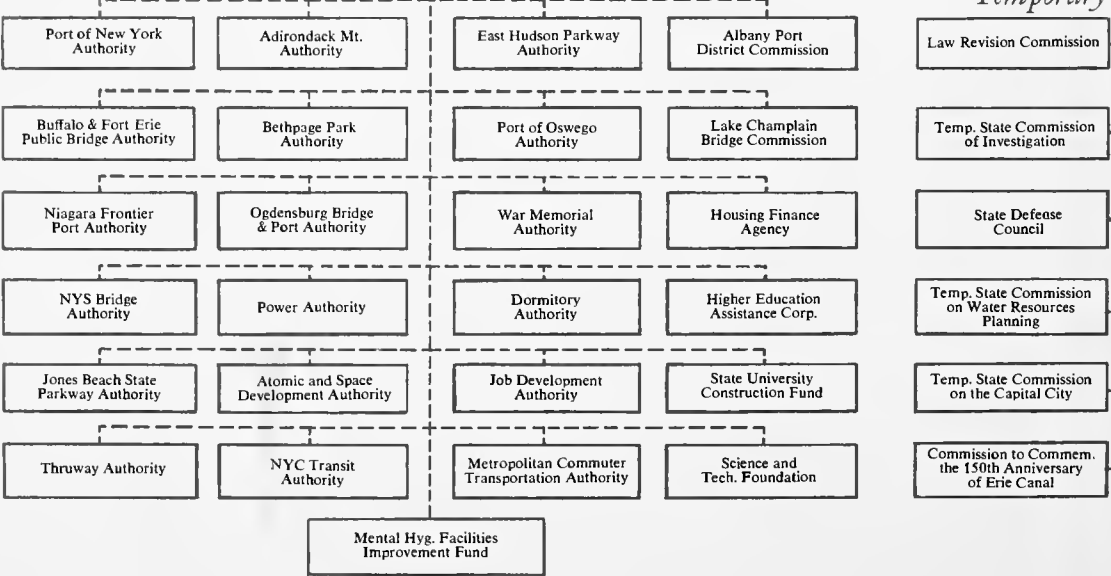
January 1, 1967

Civil Departments



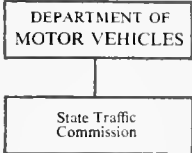
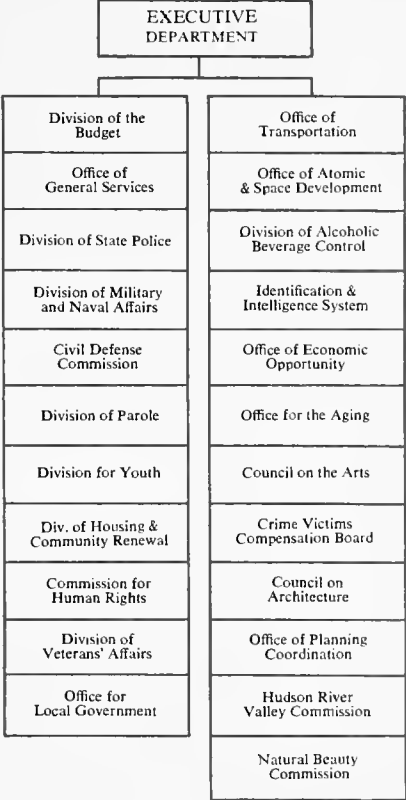
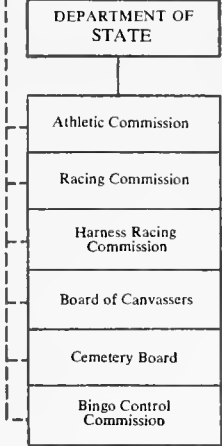
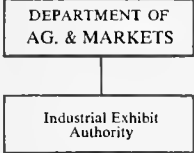
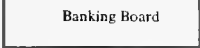
Authorities and Public Benefit Corporations

Temporary

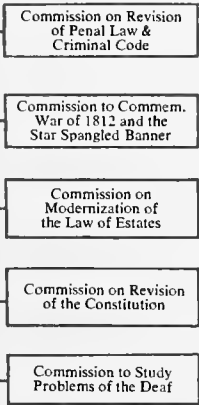


GOVERNOR

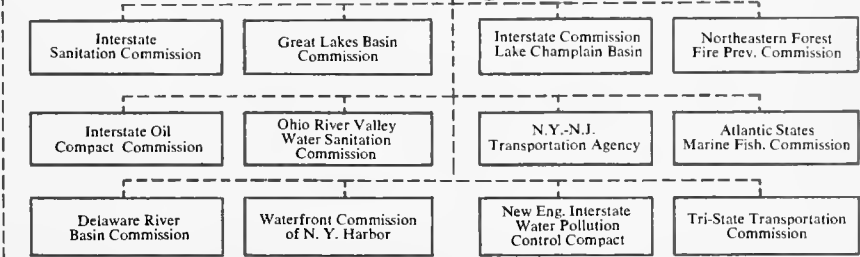
Elected Officials



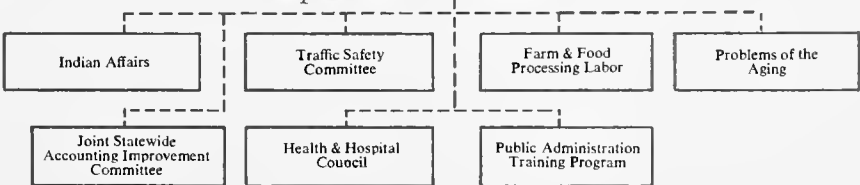
Commissions



Interstate Agencies



Interdepartmental Committees



ple) could be placed in a single department that enforces standards established in collaboration with advisory boards drawn from each respective field. Higher education poses unusual problems. Some states have consolidated control over their many separate institutions in a single board; others have sought coordination through various devices. But many have not attempted to harmonize competitive interests, despite the great importance of this function.

Reorganization Power. Thirty-five years ago President Hoover initiated changes in the administrative structure of the national government by executive order, leading to a procedure formally recognized by Congress in the Reorganization Act of 1939. Seven states have given their governors comparable reorganization initiatives. All governors should be empowered to put improvements into operation by executive order, subject only to legislative veto, as the President is able to do.

State administrative operations should be organized along broad functional lines, with the governor empowered to appoint and control department heads. Most boards and commissions, except for higher education and regulatory functions, should be limited to an advisory role. We recommend that every governor have power to initiate administrative reorganizations and put them into operation through executive order, subject only to legislative veto within a specified time.

• Staff Support for Planning, Coordination, and Financial Control

As we conceive of his responsibilities and obligations, it is clear that no person—acting alone—can fulfill the assignment of chief executive of any state. The governor has to have staff support in both policy and management aspects of his office. This support may be drawn from individuals attached to the governor's immediate office, and from staff units of varying size concerned with such specific fields as planning, personnel, and budgeting. The "cabinet" device has had little use by the states for communication and coordination of major programs, but it holds greater promise when department heads are appointed by the governor and serve at his pleasure.

Immediate Staff. The governor's personal staff has demanding and delicate assignments: developing policy recommendations for legislative presentation; acting as liaison with federal, state, and local agencies; planning and coordinating programs; conducting press and public relations; responding to mail; scheduling appointments; receiving callers; writing speeches; counseling with legislators on proposed legislation; and keeping in touch with party officials. Despite every effort to utilize manpower resources available in the executive departments to the maximum extent feasible, responsibility for this kind of staff support requires adequate immediate staff for the governor.

Budgeting. Effective state budgeting requires that the governor be charged with the submission of a comprehensive executive budget which outlines program plans and expenditures for future years. To do this, he needs a budget staff composed of able career people and headed by an appointee responsible to him. In most states the budget division reports to the governor, but it is usually understaffed, overworked, and too preoccupied with administrative detail to retain a broad perspective. The common requirement that budget staffs must approve routine purchases or minor internal appropriation transfers merely consumes time and energy diverted from major policy and program concerns. This practice also denies operating agencies the flexibility essential to proper fulfillment of their responsibilities. Ideally the budget staff should function much as CED has recommended for the United States Bureau of the Budget, using such "planning-programing-budgeting system" approaches as cost-effectiveness analysis and cost-benefit studies.¹

Particularly in those states with large outlays, the budget staff should prepare both an administrative budget, containing only items which must be appropriated, and an economic impact budget. The latter would be similar to the United States government's national income and product accounts budget, including all regular expenditures, grants-in-aid, and trust funds. This would be a helpful tool in making long-range plans for economic growth and for more effective utilization of resources. The value of special attention to the coordination and justification of capital outlay plans is beyond question, whether in the form of a separate capital outlay budget or as a supplement to the regular budget.

¹ See *Budgeting for National Objectives*, a Statement on National Policy by the Research and Policy Committee of the Committee for Economic Development, January 1966.

Planning. The governor's need for a professional planning staff is only now beginning to be recognized in a few states. Social and economic trends have profound implications in forecasting future state needs and in identifying the state's opportunities. Finding the optimum usage of available physical and human resources is a professional's assignment, at state as well as local levels. Primary responsibility rests upon the states, and they might well supply physical planning services where local capabilities are weak or nonexistent. The same principle applies to the need for coordination and optimum utilization of federal funds available to both the states and their local units. The growing range and complexity of federal grants implies the necessity for central planning of a high order—an appropriate function of a state planning staff.

The planning staff may also have responsibility for some aspects of program planning in the budgeting process. After definition of goals for the state, it can work with individual agencies in translating these into plans, setting program priorities, and integrating interdepartmental programs, as well as aid the budgeting staff in quantifying objectives. In collaboration with other units, it may assist in devising reorganization proposals to keep the administrative structure abreast of changing times and needs. Since a close association must exist between planning and budgeting, states may choose to organize the planning staff within the budget office. Others may place it in a department of administration, or organize it independently under gubernatorial control.

Personnel. States with any semblance of a modern personnel system are the exceptions. There are 18 states without a general civil service system; in many of these coverage is limited to programs requiring it as a condition for obtaining federal grants. Where broad civil service systems are found, they often suffer from rigidities and misplaced priorities. Legislation is pending in Congress to provide federal aids for state personnel offices and for training state employees, implying little hope that the states will correct prevailing conditions on their own initiative. We believe that it is time to make a clean break with the past, and that the states should take a leading role in the installation of up-to-date personnel systems.

When this function is vested in an independent civil service commission, "management often finds itself unable to determine its own

manpower requirements, to rotate as part of their development, or to promote primarily on the basis of ability."¹ Even greater frustrations result when attempts are made to maintain departmental discipline or to remove incompetent employees. Independent state civil service commissions should be replaced by central personnel agencies under directors appointed by and responsible to the governors. Administrative responsibility cannot be placed upon a governor unless he also has basic authority over personnel.

The personnel agency should act for the governor in formulating appropriate personnel policies and procedures, in developing three-to-five year personnel requirement plans, in working with educational institutions on programed courses of study, and in recruiting able candidates to fill vacancies. It should also administer examinations, certify qualifications for classified positions, devise programs for manpower development, see that opportunities for advancement are open to those who qualify by performance, and be prepared to hear grievances. In these activities the agency will need to collaborate with individual departments to help them meet their personnel needs.²

Departments of Administration. One of the most hopeful developments of recent decades in state government has been the establishment of departments of administration in 35 of the 50 states. Some states have chosen to place only such auxiliary services as purchasing, motor pools, records management, computer operations, and property management in a department of administration, along lines comparable to the General Services Administration in the national government. Others use the Department of Administration as a staff control unit, giving the governor comprehensive support in major fields of planning, budgeting, accounting, contracting, and personnel. Still other states use a combination of these patterns, placing in the same department some staff units with control functions and others with housekeeping duties.

Regardless of the alternative used, there is growing acceptance

1 Municipal Manpower Commission, *Governmental Manpower for Tomorrow's Cities* (New York: McGraw-Hill Book Company, 1962), p. 66.

2 For more detailed discussions on the subject of personnel see *Modernizing Local Government*, a Statement on National Policy by the Research and Policy Committee of the Committee for Economic Development, July 1966, pp. 51-53; and *Improving Executive Management in the Federal Government*, a Statement on National Policy by the Research and Policy Committee of the Committee for Economic Development, July 1964.

of the governor's imperative need for sound staff support in long-range program planning and for effective control over program execution. Departments of administration have helped to mitigate the worst aspects of chaotic structural organization, and to give the governor some degree of administrative authority wherever the head serves at gubernatorial pleasure. Each state should have such a department organized along lines best suited to its needs. We favor this alternative over grouping major staff units into an "Executive Office" without any department head, since the governor's span of control is already too broad.

The Concept of a State Manager. When elected, governors are seldom skilled in administrative management; the wide-ranging roles involved in gubernatorial leadership often make other qualifications seem more important to the general public. The idea of a "General Manager," serving at the governor's pleasure and assuming central responsibility for day-to-day management of the entire executive establishment, has considerable appeal and deserves experimental application. This pattern, with a chief administrator responsible to an elected executive, has been followed in a number of large cities—Los Angeles, New Orleans, and Philadelphia, among others.

The head of the department of administration could serve in this capacity, especially where he has authority over the major policy staffs, or a new office might be created. Whatever the organizational pattern selected, a governor should be free to determine how to use the "General Manager," and the degree of authority to be delegated.

Every governor should be responsible for developing long-range plans, preparing comprehensive budgets, and managing personnel. To assist in these and other tasks, each governor needs highly qualified staff support, including a department of administration. We urge experimental use of appointive "general managers" responsible under gubernatorial direction for day-to-day management and coordination in the executive branch.

• *Succession and Inability*

Many states have constitutional and legislative gaps regarding succession to the governorship in case of death or disability. Such ambiguities resulted in confusion when Wisconsin's governor-elect died in

1943 and when Georgia's died three years later. When Oregon's governor and other elective officials were killed in a 1947 airplane crash, there was no further line of succession, which created a critical situation. In Arizona, Governor Sidney P. Osborn continued to serve until his death in 1948, some two years after losing his speech and the use of his limbs.

Ambiguities here should be clarified along lines recommended by CED for the Presidency and now embodied in the twenty-fifth amendment to the United States Constitution.¹ Procedures are needed to determine disabilities fairly, confidently, and without delay. A fixed line of succession should run to the lieutenant governor or other designated officials. If the lieutenant governor is elected on the same party ticket as the governor—as seven states now do—and if department heads are appointed by the chief executive, the successor would presumably have a political philosophy harmonious with that of the governor.

State constitutions should make clear provision for gubernatorial succession in all cases, including disability. Governors and lieutenant governors should be elected together, as a team.

* * *

Governors must assume the tasks of executive management and should therefore have the powers, prerogatives, and instrumentalities suited to that end. It is not our intention to derogate or minimize the role of the legislature, however. Vigorous legislatures and strong governors may coexist; both are highly desirable for vital and effective state government. Effective legislative policy-making depends heavily upon the quality of the agenda presented by an informed executive, supported by able staff.

Those who fear that a strong governor may develop autocratic tendencies should recognize the many preventive checks and balances. Legislatures have power to pass on gubernatorial requests, confirm appointments, and initiate impeachment procedures. State and federal courts are available to prevent abuses. Twelve states even have provisions for recalling the governor by popular vote. Recall petitions must usually be signed by 25 per cent of the voters, but only 10 per cent is required in Idaho and 12 per cent in California.

¹ See *Presidential Succession and Inability*, a Statement on National Policy by the Research and Policy Committee of the Committee for Economic Development, January 1965.

Chapter Five

MODERNIZING THE JUDICIAL BRANCH

The administration of justice in both civil and criminal cases is primarily a responsibility of the states, even though the role of the federal judiciary has been expanded. State-local court systems have been studied intensively for many years by such well-qualified groups as state judicial councils, the American Judicature Society, the American Bar Association, and the National Municipal League.

There is a remarkable degree of agreement in the findings of these studies—from the report of the Wickersham Commission in 1931 to that of the President's Commission on Law Enforcement and Administration of Justice in 1967. The same major reforms to correct the same glaring defects have been urged on the states again and again, but with slight effect. With a few scattered or piecemeal exceptions, the progress of court reform has been even slower than in the executive and legislative branches of state government.

Poor organization and archaic procedures create delays in civil suits and weaken the administration of criminal justice. The 1967 report of the President's "Crime Commission" supports this conclusion.

While in some States successful court reform has created courts able to meet new demands, in many States the entire court structure continues to reflect an earlier age. There is a multiplicity of trial courts without coherent and centralized administrative management. Jurisdic-

tional lines are unnecessarily complex and confusing. Each court and each judge within the court constitute a distinct administrative unit, moving at its own pace and in its own way. In a number of States courts not responsible to a statewide system nor subject to its management continue to be viewed as a source of local revenue, and criminal justice is seen as a profit-making activity.¹

We do not propose to set forth a detailed program for state-local judicial reform in this policy statement. We believe, however, that we must call attention to the responsibility of the 50 states for the condition of their judiciaries, since they are coordinate third branches of government. High crime rates and the need for expeditious and equitable administration of civil law prompt us to reiterate basic needs that authorities on the judiciary have uniformly noted.

• *Court Organization and Administration*

Each state has its own system of courts—with such local bodies as justices of the peace, police courts, magistrates' courts, and municipal courts at the bottom of the structure; general trial courts (e.g., district and superior courts) above them; and one or more higher bodies to hear appeals. Some states also have separate courts for juveniles, domestic relations, and probating wills.

Justice of the peace courts and similar bodies are weak links in the judiciary. They have small geographic jurisdictions, and seldom hold trials or keep detailed records. Their judges commonly have little legal training and usually collect their own fees. Higher state courts may share concurrent jurisdiction with these inferior courts but cannot supervise them, since they are under independent local control—even though most lower courts enforce state laws.

In 1931¹ the Wickersham Commission urged that such lower courts be abolished, and the Presidential Commission reached a similar

¹ *The Challenge of Crime in a Free Society*, a report by the President's Commission on Law Enforcement and Administration of Justice (Washington, D.C.: U.S. Government Printing Office, 1967), p. 157.

conclusion in 1967. We support this recommendation. All nonfederal courts in each state should be combined into a single judicial system, as long advocated by those groups most familiar with the present situation and its consequences. Minor local courts would be replaced by a state-wide system of inferior courts with original and general jurisdiction, under full-time qualified judges. Administration of the entire state judicial system should also be centralized, so that judges and other court personnel may be shifted to meet changing requirements. Colorado, Illinois, and New Jersey—among other states—have taken steps toward unification of their court systems, under central administration.

We recommend that each state create a unified judicial system embracing all nonfederal courts, judges, and other court personnel. Administration of this system should be centralized to insure the best use of manpower and facilities.

• *Selection, Tenure, and Compensation of Judges*

Selection. The administration of justice in any court system cannot rise above the quality of its judges, but procedures to assure the selection of qualified candidates are often lacking. Forty-one states provide for the popular election of all or part of their judges, 28 using partisan ballots. Five states—Connecticut, Rhode Island, South Carolina, Vermont, and Virginia—give their legislatures power to elect important judges, which eliminates lengthy and costly campaigns but tends to give disproportionate consideration to political affiliations.

Popular election is not a suitable means for the choice of judges. Judges should not be chosen on the basis of political appeal or party standing. Citizens often cast their ballots for judges blindly, or fail to vote on such positions. A recent opinion survey found that half the citizens who went to the polls in New York City in 1966 failed to vote at all on any judgeships, and that very few of those voting could even remember the name of any judicial candidate only a week or so later.

We support the proposal, almost universally recommended, that all judges at all levels be selected on the basis of merit, along lines used for state judges in Missouri for over 25 years. Eleven other states use comparable plans, at least for some judicial positions. The plan involves

a nominating commission—usually composed of the chief justice as chairman, along with an equal number of lawyers elected by the state bar and non-lawyer citizens named by the governor—which submits names of three persons it feels best qualified to fill each vacancy in a court of state-wide jurisdiction. (The same principle is applicable to courts of lesser jurisdiction, with members of the nominating commission drawn from that district.) This commission can give informed consideration to such important factors as integrity, legal training, professional ability, emotional stability, and physical stamina for each prospective judge. The governor then selects one individual from this list. Subsequent terms are based on reappointment or noncompetitive reelection.

Tenure. Long tenure helps to protect judges from political influence. Appendix Table 5 (Terms and Salaries of Judges) shows that Vermont limits judicial terms to two years for all its judges, and that 17 other states have six-year terms for judges of their highest courts. Many judges of lower courts are selected for terms of four years or less.

Short terms discourage able men from serving on court benches, especially when they must compete in partisan elections. The Presidential Commission of 1967 has recommended that terms of all major trial court judges be “for 10 years or more.” With the creation of a unified and restructured state court system along lines proposed above, this recommendation logically is extended to include all judges. A strong case may be made for life tenure of judges, subject to mandatory retirement at age 70, if suitable arrangements are made to permit removal for cause. Life tenure in one form or another is widely used in Massachusetts and Rhode Island, as well as for the national judiciary.

Regardless of the length of terms, provision should be made for a more dignified, fair, and effective procedure to discipline or remove judges. The cumbersome method of impeachment, however useful as a potential check on governors, has not worked well in the state judiciaries. California’s Commission on Judicial Qualifications, established in 1960, has proved successful for this purpose and is being widely copied in other states.

Compensation. Efforts have been made in recent years to raise judicial salaries, but many states continue to pay their judges far less than they would receive in private practice. (See Appendix Table 5.) A

1964 survey of Boston lawyers with at least ten years of experience showed that their incomes were \$1,000 to \$10,000 higher than trial court judges; surveys in Michigan and Oklahoma have produced similar findings.¹

In our view, no justice of a state's highest court should be paid a salary less than that of a federal district court judge, currently \$30,000 per year. Populous states should establish substantially higher levels, following the example of New York with a base salary of \$39,500. Chief justices should receive additional amounts commensurate with their extra responsibilities. The pay of lesser judges should be raised correspondingly. Judicial positions not important enough to command a respected salary for a competent full-time judge should be abolished, with their functions absorbed by other courts.

We recommend that each judge be appointed by the governor from a list of nominees submitted by an independent selection committee. Judges should have a tenure of no less than 10 years—with the right to be reappointed or to stand for noncompetitive re-election. We further recommend that each state pay the justices of its highest court salaries no less than those of federal district court judges (currently \$30,000), and that larger states set proportionately higher salaries. Corresponding pay scales should be established for all lesser judicial positions.

* * *

No society can claim a high level of civilization without equitable and prompt adjudication of civil disputes. Certainty and celerity in the administration of criminal justice are equally vital. These matters should be of deep concern to every citizen. State-local court systems belong to the people of this country. They should not be permitted to stagnate, in the mistaken belief that reform must await the initiatives of a specialized profession viewing them as a private preserve.

1 Glenn R. Winters and Robert A. Allard, "Judicial Selection and Tenure in the United States," in *The Courts, the Public, and the Law Explosion*, Harry W. Jones, ed. (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1965), p. 154.

SECURING A CONSTRUCTIVE FUTURE FOR THE STATES

Prompt correction of the structural deficiencies of state government, together with acceptance of responsibility for modernization of local governments, would permit the states to play a major future role. Many of the necessary changes will require amendment or comprehensive revision of state constitutions. Others can be made effective through statutes, legislative resolutions, executive orders, or simple initiation of better management practices.

• *Constitutional Revision*

Of the 48 older states, only Georgia, Missouri, New Jersey, Michigan, and Connecticut have adopted new constitutions since 1945, and some of these made few substantive changes. Some other states are showing a strong new interest in revising their constitutions, however, with conventions currently being held in Rhode Island and New York and others scheduled in Hawaii, Maryland, and Pennsylvania.

Most state constitutions are far too long. (See Appendix Table 6.) In contrast with the United States Constitution, they are cluttered with large sections of statutory—as opposed to organic—subject matter, resulting in numerous piecemeal amendments to cope with changing conditions. In November 1966, 381 separate amendments were sub-

mitted to voters in 39 states, 162 of which dealt with local issues. The need for amendments would be greatly reduced if constitutions were written in clear, understandable language; kept brief and flexible; restricted to fundamentals; and designed to serve future as well as present needs.¹ The brevity of the federal Constitution, and its proper emphasis on basic principles follows this prescription; apart from the Bill of Rights it has been amended only 15 times in 180 years, with two of the amendments cancelling out.

Gaining Public Support. Most states should hold constitutional conventions, at the earliest possible date, in order to draft completely new documents. Yet, few states will authorize a convention or ratify its proposals unless there is broad-based citizen interest in reform. This requires a massive educational program. Leadership talents from business, organized labor, professional associations, service groups, and political parties, for example, must be mobilized in a united effort to secure constitutional and legislative reforms.

New Jersey's successful campaign to convince the public of the need for a new constitution was led by a special "Constitution Foundation," with support from the League of Women Voters, the State Chamber of Commerce, the State Bar Association, and both major political parties. The independent "Citizens for Michigan" organization — composed of representatives of a wide variety of civic and business groups — was instrumental in calling a constitutional convention, influencing the content of the document, and gaining its ratification. These results contrast sharply with nearly universal rejection of proposed new constitutions in states which have failed to make intensive coordinated educational efforts.

Conventions should not be restricted to particular subjects, since broad revisions are needed in nearly every state. Careful advance preparation is important to the success of a convention. New York State's 1967 convention has been exceptional in its emphasis on assembling a qualified research staff to assist it. Maryland has had several study groups, composed of specially knowledgeable citizens, to develop background papers on major issues prior to convening its convention in late 1967. Undoubtedly, absence of preparation is partly responsible for the

¹ These principles are exemplified in the *Model State Constitution* published by the National Municipal League (New York, 1963, 6th ed.).

recent Rhode Island convention lasting more than two years, with resulting loss of interest among many delegates.¹

Those few states with short constitutions, flexible provisions, and modern structures of government may make useful changes through amendments proposed by the legislature, or through the initiative (authorized in 14 states), or through a constitutional commission. Under the latter procedure, used by about half the states a total of over 40 times since 1950, the commission is usually responsible to the legislature—which must approve its proposals before submission to a popular vote.

Items for Inclusion. In revising state constitutions there are certain crucial elements, identified in this statement, which deserve careful attention.

Private and civil rights, beyond those protected under the Constitution of the United States, need to be defined in detail. Clarification of property rights as against regulations concerned with zoning, land use, pollution, and the conditions of human occupancy are at issue, for example.

The authority of the governor over all elements in the executive branch should be made completely clear. Specifically, the governor needs authority to initiate and effectuate administrative reorganizations, subject only to legislative veto within a specified period of time. Succession to the governorship in the event of death or inability should also be fully covered.

The basic structure of the legislature and allowable ranges of membership ought to be made clear. Terms of office should be stated, and responsibility for reapportionments fixed. Restrictions on legislative powers in matters of appropriations, taxation, borrowing, and grants of home rule to local units, for example, should be kept at a minimum to allow flexibility in meeting future problems.

The judicial article should provide for a unified court system under central administrative control, appointment of judges for long terms, and suitable disciplinary arrangements.

¹ For a more detailed discussion on how to gain public support for and hold a constitutional convention see "Staging a State Constitutional Convention" by John E. Bebout and Emil J. Sady in *State Constitutional Revision*, W. Brooke Graves, ed. (Chicago: Public Administration Service, 1960), pp. 67-85.

The suffrage and legislative powers over nominations, elections, and political party organizations are fundamental items.

The organization and powers of local governments should receive careful attention, along lines recommended in CED's policy statement on *Modernizing Local Government*. Specifically, establishment of a state boundary commission, with continuing authority to design and redesign local jurisdictional lines, would be a suitable inclusion.¹

The amending process—through constitutional conventions or commissions, legislative action, or popular initiative and referendum—must be outlined. Provision for preliminary studies in advance of constitutional conventions would be another appropriate item.

Hesitation may be anticipated in the abandonment of old and tested documents in favor of new and untried instruments, however ideal. The Declaration of Independence noted that "all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed." After making this observation the Founding Fathers proceeded nevertheless to create a radical, enduring, and classical national Constitution.

We urge every state without a short, flexible constitution to hold a convention—after careful preparation—to draft a new, concisely written document which contains the basic structural provisions here recommended. Where only limited reforms are needed they may be secured by using a constitutional commission to draft specific amendments.

• *Immediate Measures*

Vital as constitutional changes are, many reforms can be accomplished within present frameworks, and could be implemented at an early date.²

1 See *Modernizing Local Government*, *op. cit.*, p. 61.

2 The Advisory Commission on Intergovernmental Relations publishes an annual "Legislative Program," including many reforms to be instituted through simple statutory enactments.

Legislative organization and procedures are usually subject to internal control by the legislatures themselves. Rules should be revised to conform with major recommendations, electronic voting installed where not in use, and a journal of legislative activities published daily during regular sessions.

Legislatures may initiate **long-range research projects** and provide their committees with **suitable staff support**, without constitutional revisions.

Governors might exert greater efforts to utilize all available resources within and outside state agencies in **advance planning and programing** for state operations.

A governor can appoint **advisory groups**, funded from state treasuries where possible or from private sources if necessary, to study specific problems and to propose and gain popular support for **administrative reorganizations**.

Justices of the highest state court could collaborate with the state's Bar Association—at the initiative of either group—to undertake a **thorough review of state-local court systems**, in the knowledge that proposals so developed would have a strong chance of adoption.

States can establish an executive **department or agency of local government**, as several have already done. Such an agency can collect information about local units for the benefit of state and local officials, help coordinate federal and state aid programs, provide technical assistance on specialized problems, encourage structural modernization of local units, and stimulate state universities to initiate training and development programs for prospective and incumbent local employees. (This agency should not be confused with the proposed local government boundary commission which also needs to be established.)

A **"climate of professional competence"** can be encouraged within every state agency, upon the determined insistence of the agency head and his immediate staff.

If pursued with vigor, these and many comparable initiatives would tend to elevate state governments in the eyes of the public, the

press, national and local officialdom, and state officers and career servants alike.

We urge every branch and each agency of state government to engage in an active modernization program immediately, to the maximum extent possible.

• *Interstate Cooperation*

The drafters of the Constitution recognized the limitations imposed by state boundaries, even in 1787. Hence, they provided for "interstate compacts," when approved by legislatures of the states involved and by Congress. But most states have been slow to use this device in major matters transcending their individual jurisdictions, preferring to default to the national government primary responsibility for devising solutions to interstate problems.

There are, however, some notable exceptions. The Port of New York Authority was created by a compact in 1921 between the states of New York and New Jersey to administer terminal and transportation facilities and promote commerce in the New York City metropolitan area. It has compiled an impressive list of achievements which no state or local government, acting independently, could easily match. Several interstate authorities—including the Delaware River Port Authority and the Kansas-Missouri Waterworks Compact—have served well in smaller metropolitan areas. The Delaware River Basin Commission and the Santa Fe Compact of 1922 (dealing with the upper basin of the Colorado River), among others, have succeeded in dividing river water flowing past or through several state jurisdictions. The recently approved "Compact for Education" is designed to serve the states as a forum for sharing experiences, improving standards, and debating the goals of educational policy.*

Nearly all interstate compacts so far adopted are confined to a specific function. As a result, some states have a number of compact agreements with adjoining states. More effective use of the compact device might be made if grants of authority were broadened to encompass categories of functions. For example, adjoining states might have one compact for handling common problems pertaining to all aspects

* See Memorandum by MR. CHARLES P. TAFT, page 77.

of natural resources and another for developing solutions for interstate metropolitan problems.

We recommend that every state actively explore opportunities for cooperation through use of interstate compacts. We also repeat our earlier recommendation calling on Congress to enact general permissive legislation authorizing the states to create joint authorities for handling interstate metropolitan problems.¹

• *Uniform State Laws*

In addition to the use of interstate compacts, greater cooperation among the several states can be achieved through uniform state laws. Since its inception in 1892, the National Conference of Commissioners on Uniform State Laws—composed of lawyers, judges, and law school professors—has drafted and approved about 170 acts for adoption by the states. Some of these have been approved by all or most of the 50 states, with beneficial results. Many aspects of business law, for example, have been greatly simplified through the adoption of The Uniform Negotiable Instruments Law and the Uniform Warehouse Receipts Act by all states, the Uniform Partnership Act by 40 states, and the Uniform Sales Act by 37 states.

There are several important fields where the states have taken relatively little action, however, rendering well-designed uniform statutes comparatively pointless. One of the most significant concerns family affairs. Only ten states have approved the Uniform Act on Divorce Recognition; only seven have enacted the one on Blood Tests to Determine Paternity; only two have ratified the Uniform Law on Adoption; and only Kansas has accepted those on Marriage License Application and Prenatal Blood Test. A mere 14 states have enacted the Uniform Law on Vital Statistics, and no state has taken positive action on the proposed Federal Services Absentee Ballot Act, the Rules of Criminal Procedure Act, or the Status of Convicted Persons Act.

Taxation is an important area in which few uniform state laws of substance have been proposed. At present, intergovernmental tax complications—and the burden on persons and corporations making

¹ See *Modernizing Local Government*, *op. cit.*, pp. 46-47.

reports to several state governments as well as to numerous local units—are a serious handicap in the conduct of business enterprise. Coordination of American tax systems seems long overdue. This could be accomplished partly through uniform state laws and partly through joint action at national, state, and local levels.¹

The states should adopt uniform standards—if not rates—in levies on tobacco, gasoline, and liquor. Administrative enforcement of many different kinds of state laws is costly and often ineffective. Diversity in these matters encourages widespread bootlegging and highjacking. The national government might extend its administrative facilities to aid the states in their tax collections. Local levies on sales and incomes should be limited to “piggyback” arrangements, under which an additional local levy is added to the state tax rate. The states can administer such plans inexpensively.

We recommend that all 50 states greatly intensify their efforts to adopt uniform state laws. We also urge all states to increase the equity and uniformity of tax administration through use of “piggyback” arrangements for local income and sales tax collections. And we urge better coordination of federal and state tax systems.

• *Incentives for Reform*

Experience with school district consolidations has shown that few major governmental reorganizations are accomplished without financial incentives. This fact should be recognized in any program for comprehensive state—and local—modernization. As long as federal grants continue to encourage functional government, there will be little impetus for adopting many necessary structural reforms or for making major constitutional revisions. All federal aids, as well as state grants to local government, should be designed to encourage structural and administrative modernization. They should also foster proper coordination among programs at each level of government. Supplementary funds might well be granted to those states taking significant actions to modernize their governmental patterns.

¹ For more detailed discussions on this subject see *A Fiscal Program for a Balanced Federalism*, *op. cit.*, and *Modernizing Local Government*, *op. cit.*, pp. 53-55.

We recommend that financial support to state and local governments be designed to foster major structural revisions and encourage coordination among all appropriate functions at each level of government.

* * *

The time has come for a basic choice concerning the future role of American state government. State governments may be reconstituted to function effectively within the framework of a changing pattern of federalism. Or they may be permitted to follow the course many of them have taken in recent years — toward continuing decline in relative influence over major policy issues, and toward gradual transformation into administrative units commanded and directed from the seat of national government in Washington, D.C.

MEMORANDA OF COMMENT, RESERVATION, OR DISSENT

Page 18—By CHARLES P. TAFT:

I would add that state party organizations are for the most part federations of County Chairmen. Even the state party committee members, who are often elected by Congressional districts, are dominated by the County Chairmen. The chairmen of state party committees are obviously influential, but always with one eye on County Chairmen.

The illusion of state party unity is fostered by any Presidential primary system in which (as in Ohio) the candidates for delegate to National party conventions must furnish letters from the presidential and vice presidential candidates whom they favor, designating them as his chosen representative. The effect of this, under the popular favorite son system, is to provide an official party ticket to the Convention, for obedient party delegates.

Pages 21 and 47—By JOSEPH L. BLOCK:

I agree that limitations to single terms and two-year periods of service for governors are inimical to good state government. However, I am not sure that unlimited tenure is essential. It seems to me that the recommended pattern should be "at least two consecutive four-year terms."

Page 21—By MARVIN BOWER, with which PHILIP SPORN has asked to be associated:

I do not believe that reelection of the governor of a state should be "without restriction." Three terms of four years each should be the

maximum—in order to avoid an unhealthy concentration of power in one party.

Page 21—By CHARLES P. TAFT:

Judges should never have to run in a party primary and in the General election. The ultimate in asininity is to require them to run in a party primary and face a general election on a non-partisan ballot (Ohio).

Page 40—By S. ABBOT SMITH:

I disagree with this paragraph. I do not believe “that public disclosure” will really remedy the situation. It seems to me that the more important the individuals are, the larger their outside investments and interests are likely to be and the less they will want to disclose the sources of their outside incomes. Consequently, they are the more likely to be deterred from seeking public office if it will be necessary for them to make a public disclosure if elected. Disclosure also opens them up to the possibility of too much personal attack by “muck-rakers.” Furthermore, unless the amounts in each case are disclosed, disclosure is meaningless since one person with small holdings of a company would not be influenced, but another person with large holdings might have an important conflict of interest, yet both would list the same source. Furthermore, it would be even more unfair to require such disclosures on the part of the immediate families.

It seems to me the real remedy lies in electing men of high caliber and integrity, then relying on their personal ethics to conduct themselves properly.

Page 43—By CHARLES P. TAFT:

I agree with the necessity for professional staff. But a vigorous party minority criticizing majority proposals needs a small party staff for research, drafting, and general assistance in party and partisan proposals, which cannot come from a professional staff available to, and probably chosen and directed by the majority.

Page 72—By CHARLES P. TAFT:

ORSANCO (Ohio River Sanitation Comm.) should not be omitted. This nine state operation is the model for cleaning up a polluted river basin.



APPENDIX

*Table One: Size and Party Composition
of State Legislatures as of August 1, 1965*

*Table Two: Frequency and Length of Legislative
Sessions, Length of Term, and
Compensation of Legislators*

Table Three: Legislative Committees and Hearings

*Table Four: Governors: Length of Terms, Compensation,
and Eligibility for Re-election*

Table Five: Terms and Salaries of Judges

*Table Six: General Information
on State Constitutions*

*Table One: Size and Party Composition of State Legislatures
As of August 1, 1965 (Figures in parentheses show size revisions since then)*

STATE	SENATE ^a			HOUSE ^a		
	Size	Democrats	Republicans	Size	Democrats	Republicans
Alabama	35	35	—	106	102	4
Alaska	20	17	3	40	30	10
Arizona	28 (30)	26	2	80 (60)	45	35
Arkansas	35	35	—	100	99	1
California	40	25	14	80	49	31
Colorado	35	15	20	65	42	23
Connecticut	36	23	13	294 (177)	111	183
Delaware	18	13	5	35	30	5
Florida	44 (48)	42	2	112 (117)	102	10
Georgia	54	44	9	205	182	23
Hawaii	25	16	9	51	39	12
Idaho	44 (35)	19	25	79 (70)	37	42
Illinois	58	24	32	177	116	58
Indiana	50	35	15	100	77	22
Iowa	59 (61)	34	25	124	101	23
Kansas	40	13	27	125	44	81
Kentucky	38	24	13	100	62	37
Louisiana	39	38	—	105	103	2
Maine	34 (32)	29	5	151	80	70
Maryland	29 (43)	22	7	142	117	25
Massachusetts	40	27	13	240	169	69
Michigan	38	23	15	110	73	37
Minnesota	67	Nonpartisan		135	Nonpartisan	
Mississippi	52	52	—	122	122	—
Missouri	34	23	11	163	124	39
Montana	56 (55)	32	24	94 (104)	56	38
Nebraska	49	Nonpartisan		Unicameral		
Nevada	17 (20)	8	8	37 (40)	25	12
New Hampshire	24	8	16	400	177	220
New Jersey	21 (40)	6	15	60 (80)	28	32
New Mexico	32 (42)	28	4	77 (70)	59	18
New York	58 (57)	33	25	151 (150)	88	62
North Carolina	50	49	1	120	106	14
North Dakota	49	20	29	109 (98)	65	44
Ohio	32 (33)	16	16	137 (99)	62	75
Oklahoma	48	41	7	99	78	21
Oregon	30	19	11	60	28	32
Pennsylvania	50	22	27	209 (203)	116	93
Rhode Island	46	30	16	100	76	24
South Carolina	46 (50)	46	—	124	123	1
South Dakota	35	16	18	75	30	45
Tennessee	33	24	7	99	75	24
Texas	31	31	—	150	149	1
Utah	27 (28)	15	12	69	39	30
Vermont	30	12	18	246 (150)	64	177
Virginia	40	37	3	100	89	11
Washington	49	32	17	99	60	39
West Virginia	34	27	7	100	91	9
Wisconsin	33	13	20	100	52	48
Wyoming	25 (30)	12	13	61	31	27

a. Total of party columns may not equal size of legislative chamber because of vacancies, non-partisanship, or other party affiliation of some members.

Source: *The Book of the States 1966-67*, vol. XVI (Chicago: The Council of State Governments, 1966), p. 45.

*Table Two: Frequency and Length of Legislative Sessions,
Length of Term and Compensation of Legislators*

STATE	Years in which sessions are held	Limitations on length of regular sessions ^b	Length of term		Annual Compensation
			Senate	House	
Alabama	odd	36L	4	4	5,500
Alaska	annual	none	4	2	8,748
Arizona	annual	63Cc	2	2	2,718
Arkansas	odd	60C	4	2	1,800
California	annual	none	4	2	16,000
Colorado	annuala	160Cc	4	2	3,200
Connecticut	odd	150C	2	2	2,000
Delaware	annuala	90L	4	2	4,500
Florida	odd	60Cd	4	2	1,950
Georgia	annual	45C	2	2	5,388
Hawaii	annuala	60Cd	4	2	4,385
Idaho	odd	60Cc	2	2	1,050
Illinois	odd	none	4	2	9,000
Indiana	odd	61C	4	2	2,400
Iowa	odd	none	4	2	2,500
Kansas	annual	60Cd e	4	2	3,625
Kentucky	even	60L	4	2	1,800
Louisiana	annuala	60C	4	4	4,875
Maine	odd	none	2	2	1,522
Maryland	annual	70C	4	4	4,150
Massachusetts	annual	none	2	2	8,400
Michigan	annual	none	4	2	15,000
Minnesota	odd	120L	4	2	5,871
Mississippi	even	none	4	4	3,013
Missouri	odd	195c	4	2	5,750
Montana	odd	60C	4	2	1,050
Nebraska	odd	none	4	—	2,400
Nevada	odd	60Cc	4	2	1,950
New Hampshire	odd	July 1c	2	2	100
New Jersey	annual	none	4	2	7,500
New Mexico	annuala	60C	4	2	900
New York	annual	none	2	2	18,000
North Carolina	odd	120Cc	2	2	2,100
North Dakota	odd	60L	4	2	1,150
Ohio	odd	none	4	2	8,000
Oklahoma	annual	75Lc	4	2	3,250
Oregon	odd	none	4	2	4,200
Pennsylvania	annuala	none	4	2	12,000
Rhode Island	annual	60Lc	2	2	300
South Carolina	annual	none	4	2	2,400
South Dakota	annuala	45L	2	2	1,500
Tennessee	odd	15Cf & 90Ld	4	2	1,800
Texas	odd	140C	4	2	5,520
Utah	odd	60C	4	2	650
Vermont	odd	none	2	2	1,500
Virginia	even	60Cc	4	2	1,650
Washington	odd	60C	4	2	4,350
West Virginia	annuala	60Cd	4	2	1,500
Wisconsin	odd	none	4	2	8,625 to 9,975
Wyoming	odd	40C	4	2	640

L—Legislative Days; C—Calendar Days

a. Budget session held every other year.

b. Budget sessions generally more limited

c. Per diem pay stops but session may continue.

d. Length of session may be extended.

e. Applies only to even-year sessions.

f. Organizational session.

Source: *The Book of the States 1966-67*, vol. XVI (Chicago: Council of State Governments, 1966) pp. 43, 45-47; revisions by CED staff reflect recent changes. Compensation figures supplied by the Citizens Conference on State Legislatures.

Table Three: Legislative Committees and Hearings

STATE	NUMBER OF STANDING COMMITTEES				RANGE IN SIZE OF COMMITTEES			Hearings open to public
	House	Senate	Joint	Total	House	Senate	Joint	
Alabama	19	30	0	49	7-15	3-21	...	Dis. ^a
Alaska	9	9	0	18	7-11	5-7	...	Dis.
Arizona	21	21	0	42	11-15	7-14	...	Dis.
Arkansas	26	25	1	52	5-21	5-13	12	Dis.
California	26	21	4	51	3-20	5-13	6-14	Yes
Colorado	16	20	1	37	4-19	5-15	6	Dis.
Connecticut	0	0	28	28	27-41	Yes
Delaware	26	22	1	49	5	5	10	Dis.
Florida	49	44	0	93	5-23	7-19	...	Yes
Georgia	24	19	0	43	5-51	3-22	...	Dis.
Hawaii	23	19	0	42	3-17	2-10	...	Dis.
Idaho	15	14	0	29	7-17	5-11	...	Dis.
Illinois	23	24	0	47	6-35	3-22	...	Yes
Indiana	29	29	0	58	7-16	5-11	...	Dis.
Iowa	15	15	0	30	6-45	3-30	...	Yes
Kansas	45	31	1	77	3-23	5-13	12	Dis.
Kentucky	44	19	0	63	4-45	9-22	...	Dis.
Louisiana	18	19	0	37	9-20	3-17	...	Dis.
Maine	6	3	25	34	4-7	4-12	7-10	Yes
Maryland	15	16	3	34	6-31	3-15	6-10	Yes
Massachusetts	6	4	31	41	3-16	3-10	15-19	Yes
Michigan	41	20	1	62	5-16	6-9	6	Dis.
Minnesota	33	22	0	55	4-29	7-27	...	Yes
Mississippi	50	46	5	101	5-33	3-26	5-13	Dis.
Missouri	47	30	3	80	5-50	5-15	15	Dis.
Montana	18	23	0	41	5-17	3-11	...	Dis.
Nebraska	—	14	—	14	—	1-9	—	Yes
Nevada	21	19	0	40	5-9	3-5	...	Yes
New Hampshire	24	16	1	41	5-23	3-7	8	Yes
New Jersey	13	12	6	31	7-8	6-9	12	Dis.
New Mexico	16	7	0	23	7-14	7-11	...	Dis.
New York	36	28	0	64	5-20	6-25	...	Dis.
North Carolina	46	34	1	81	12-61	7-25	21	Yes
North Dakota	14	11	0	25	22	10-19	...	Dis.
Ohio	21	13	0	34	7-25	7-9	...	Yes
Oklahoma	36	36	0	72	3-31	3-28	...	Dis.
Oregon	16	20	1	37	9	5-9	14	Yes
Pennsylvania	35	21	0	56	19	10-24	...	Dis.
Rhode Island	15	17	1	33	9-17	5-13	9	Dis.
South Carolina	8	25	5	38	5-27	5-18	6-15	Dis.
South Dakota	25	16	0	41	3-15	3-9	...	Dis.
Tennessee	17	17	0	34	17-30	9-17	...	Dis.
Texas	43	24	1	68	5-21	5-21	6	Yes
Utah	16	14	1	31	7-19	3-13	32	Yes
Vermont	18	18	3	39	15	5-6	6	Yes
Virginia	34	21	1	56	3-18	2-16	2	Dis.
Washington	24	20	0	44	9-47	6-31	...	Dis.
West Virginia	24	28	4	56	12-25	5-18	10-14	Yes
Wisconsin	23	14	5	42	3-11	3-13	5-14	Yes
Wyoming	18	16	1	35	7-9	2-5	5	Dis.

a. Abbreviation: Dis.—Discretionary.

Source: *The Book of the States 1966-67*, vol. XVI (Chicago: The Council of State Governments, 1966), p. 53.

Table Four: Governors: Length of Terms, Compensation, and Eligibility for Re-election

STATE	Length of regular term	Number of consecutive terms permitted	Salary	Governor's mansion	Depts. headed by independently elected officials ^a
Alabama	4	0	\$25,000	Yes	6
Alaska	4	2	27,500	Yes	0
Arizona	2	—	22,500	No	7
Arkansas	2	—	10,000	Yes	5
California	4	—	44,100	Yes	5
Colorado	4	—	20,000	Yes	4
Connecticut	4	—	35,000	Yes	4
Delaware	4	2	25,000	Yes	4
Florida	4	—	27,500	Yes	6
Georgia	4	0	19,800	Yes	7
Hawaii	4	—	33,500	Yes	0
Idaho	4	—	15,000	Yes	6
Illinois	4	—	45,000	Yes	5
Indiana	4	0	25,000	Yes	5
Iowa	2	—	25,000	Yes	5
Kansas	2	—	20,000	Yes	5
Kentucky	4	0	18,000	Yes	5
Louisiana	4	2	20,000	Yes	9
Maine	4	2	20,000	Yes	3
Maryland	4	2	25,000	Yes	2
Massachusetts	4	—	35,000	No	4
Michigan	4	—	30,000	No	2
Minnesota	4	—	22,500	Yes	4
Mississippi	4	0	25,000	Yes	10
Missouri	4	2	25,000	Yes	4
Montana	4	—	22,000	Yes	6
Nebraska	4	2	18,000	Yes	5
Nevada	4	—	20,000	Yes	5
New Hampshire	2	—	30,000	No	2
New Jersey	4	2	35,000	Yes	0
New Mexico	2	2	17,500	Yes	5
New York	4	—	50,000	Yes	2
North Carolina	4	0	25,000	Yes	8
North Dakota	4	—	18,000	Yes	8
Ohio	4	2	40,000	Yes	4
Oklahoma	4	0	25,000	Yes	8
Oregon	4	2	23,000	No	5
Pennsylvania	4	2	45,000	Yes	0
Rhode Island	2	—	25,000	No	3
South Carolina	4	0	20,000	Yes	8
South Dakota	2	2	18,000	Yes	7
Tennessee	4	0	18,500	Yes	4
Texas	2	—	25,000	Yes	7
Utah	4	—	18,000	Yes	4
Vermont	2	—	20,000	No	4
Virginia	4	0	30,000	Yes	2
Washington	4	—	32,500	Yes	6
West Virginia	4	0	25,000	Yes	4
Wisconsin	2	—	25,000	Yes	4
Wyoming	4	—	20,000	Yes	4

a. Either popularly or by the legislature; excludes auditors.

Source: *The Book of the States 1966-67*, vol. XV1 (Chicago: The Council of State Governments, 1966), pp. 137-141; revisions by CED staff reflect recent changes.

Table Five: Terms and Salaries of Judges

STATE	TERMS OF JUDGES			BASE SALARIES		
	Highest state court	Intermediate appellate court	Major trial courts	Highest state court	Intermediate appellate court	Major trial courts
Alabama	6	6	6	\$16,500	\$15,500	\$12,000
Alaska	10	—	6	24,500a	—	21,000
Arizona	6	6	4	19,500	18,500	17,500
Arkansas	8	—	4-6	20,000a	—	15,000b
California	12	12	6	32,000a	30,000	25,000
Colorado	10	—	6	18,000a	—	14,000
Connecticut	8	—	8	29,000a	—	27,500
Delaware	12	—	12	24,500a	—	23,500a
Florida	6	6	6	24,000	23,000	20,500cd
Georgia	6	6	4-8	22,500	22,500	21,000d
Hawaii	7	—	6	27,000a	—	25,000
Idaho	6	—	4	17,500	—	14,500
Illinois	10	10	6	37,500	29,750cd	23,250
Indiana	6	4	4-6	22,500b	22,500b	17,000c
Iowa	8	—	6	20,000	—	18,000
Kansas	6	—	4	18,000a	—	14,000
Kentucky	8	—	6	20,000	—	12,500
Louisiana	14	12	6-12	22,500a	21,500	16,850c
Maine	7	—	7	18,000a	—	17,500
Maryland	15	—	15	25,000a	—	22,500c
Massachusetts	life	—	life	29,700a	—	26,400a
Michigan	8	6	6	25,500	23,000	22,000c
Minnesota	6	—	6	22,500a	—	19,250c
Mississippi	8	—	4	15,000a	—	13,500b
Missouri	12	12	6	22,500	21,000	17,500
Montana	6	—	4	16,000a	—	14,000
Nebraska	6	—	6	17,000	—	15,000
Nevada	6	—	4	22,000	—	19,500
New Hampshire	to age 70	—	to age 70	22,000a	—	20,000a
New Jersey	7f	7f	5-7f	31,000a	27,000	27,000
New Mexico	8	e	6	20,000	e	17,500
New York	14	5	14	39,500ab	36,750ab	34,250bd
North Carolina	8	—	8	23,000a	—	22,000
North Dakota	10	—	6	14,000	—	12,000
Ohio	6	6	6	24,000a	21,000	15,000d
Oklahoma	6	—	4	16,500	—	15,300
Oregon	6	—	6	21,500	—	19,000
Pennsylvania	21	10	10	32,500a	30,500a	24,000d
Rhode Island	life	—	life	20,000a	—	18,000a
South Carolina	10	—	4	19,500a	—	19,500
South Dakota	6	—	4	17,500	—	16,000
Tennessee	8	8	8	20,000a	17,500	15,000
Texas	6	6	4	24,000	20,000	16,000c
Utah	10	—	6	16,500a	—	14,000
Vermont	2	—	2	18,000a	—	16,500a
Virginia	12	—	8	20,000ab	—	15,000
Washington	6	—	4	27,500	—	20,000
West Virginia	12	—	8	22,500	—	16,250c
Wisconsin	10	—	6	24,000a	—	22,500c
Wyoming	8	—	6	16,500	—	15,000

a. Additional compensation paid chief justice or presiding judge.

b. Additional compensation paid for expenses.

c. May be supplemented by counties.

d. Median in salary range.

e. Not yet determined.

f. With reappointment for life.

Source: *The Book of the States 1966-67*, vol. XVI (Chicago: The Council of State Governments, 1966), pp. 114-115, 118-119; revisions by CED staff reflect recent changes.

Table Six: General Information on State Constitutions

STATE	Number of constitutions	Effective date of present constitution	Estimated length (number of words)	Number of amendments adopted
Alabama	6	1901	80,000	222
Alaska	1	1959	12,000	—
Arizona	1	1912	15,000	55
Arkansas	5	1874	45,900	52
California	2	1879	70,000	350
Colorado	1	1876	15,000	66
Connecticut	2	1966	6,750	—
Delaware	4	1897	20,000	80
Florida	5	1887	32,500	129
Georgia	8	1945	30,000	71
Hawaii	1	1959	14,646	9
Idaho	1	1890	20,100	70
Illinois	3	1870	15,000	13
Indiana	2	1851	7,816	20
Iowa	2	1857	11,200	22
Kansas	1	1861	8,052	45
Kentucky	4	1891	21,500	18
Louisiana	10	1921	236,000	460
Maine	1	1820	12,438	99
Maryland	4	1867	17,500	121
Massachusetts	1	1780	14,550	84
Michigan	4	1964	19,203	—
Minnesota	1	1858	14,986	90
Mississippi	4	1890	15,302	35
Missouri	4	1945	40,000	13
Montana	1	1889	22,000	31
Nebraska	2	1875	16,550	100
Nevada	1	1864	15,840	57
New Hampshire	2	1784	8,800	46
New Jersey	3	1947	12,500	10
New Mexico	1	1912	22,400	62
New York	6	1894	45,000	133
North Carolina	2	1868	14,000	a
North Dakota	1	1889	25,000	81
Ohio	2	1851	10,700	91
Oklahoma	1	1907	70,000	57
Oregon	1	1859	22,000	114
Pennsylvania	4	1873	15,092	62
Rhode Island	1	1843	6,780	36
South Carolina	6	1895	30,500	251
South Dakota	1	1889	25,000	72
Tennessee	3	1870	8,220	10
Texas	5	1876	50,000	158
Utah	1	1896	20,500	35
Vermont	3	1793	4,840	45
Virginia	5	1902	23,101	92
Washington	1	1889	28,235	39
West Virginia	2	1872	22,000	36
Wisconsin	1	1848	11,000	77
Wyoming	1	1890	15,000	25

a. Data not available.

Source: *The Book of the States 1966-67*, vol. XVI (Chicago: The Council of State Governments, 1966), p. 10.

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See page 5 for list of Research and Policy Committee and Members of the Committee for Improvement of Management in Government who are responsible for the conclusions in this particular study.

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